THE NATIONAL ARCHIVES

FEDERAL REGISTER

VOLUME 17 NUMBER 80

Washington, Wednesday, April 23, 1952

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter II—The Loyalty Review Board

PART 230—DIRECTIVES TO THE REGIONAL LOYALTY BOARDS; CASES OF APPLICANTS AND APPOINTEES IN THE COMPETITIVE SERVICE

DETERMINATION OF CASE AFTER INTERROGATORY

Subparagraph (1) of § 230.2 (g) is amended to read as set out below:

§ 230.2 *Directive II; initial consideration of loyalty cases.* * * *

(g) *Determination of case after interrogatory.* After an interrogatory has been sent, the board shall proceed as follows:

(1) (i) If an appointee does not reply to the interrogatory within the time specified, the board shall then decide the case on the complete file. Despite his failure or refusal to reply, the board shall furnish the individual a notice of the time and place when the board proposes to consider his case, in order that the individual and his counsel or representative may appear if he so desires.

(ii) If an applicant does not reply to the interrogatory and his refusal to answer is evidenced by a registered mail return receipt from said applicant and a period of 20 days has elapsed following the date of said receipt, the board may cancel his applications and eligibilities for failure to reply to official correspondence, and notice to this effect shall be appended to each interrogatory issued to applicants. No decision shall be made as to loyalty when such cancellation action is taken. However, if the record is such that the board believes the case should be adjudicated, the case may be adjudicated on the complete file in the same manner as in the case of an appointee who does not reply to an interrogatory.

(Part III, E. O. 9835, March 21, 1947, 12 F. R. 1935; 3 CFR 1947 Supp.)

LOYALTY REVIEW BOARD,
UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] HIRAM BINGHAM,
Chairman.

[F. R. Doc. 52-4568; Filed, Apr. 22, 1952; 8:53 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Loans, Purchases, and Other Operations

[1952 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Grain Sorghums]

PART 601—GRAINS AND RELATED COMMODITIES

SUBPART—1952-CROP GRAIN SORGHUMS LOAN AND PURCHASE AGREEMENT PROGRAM

A price support program has been announced for the 1952 crop of grain sorghums. The 1952 C. C. C. Grain Price Support Bulletin 1 (17 F. R. 3521) issued by the Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1952, is supplemented as follows:

Sec.
601.1751 Purpose.
601.1752 Availability of price support.
601.1753 Eligible grain sorghums.
601.1754 Warehouse receipts.
601.1755 Determination of quantity.
601.1756 Determination of quality.
601.1757 Maturity of loans.
601.1758 Determination of support rates.
601.1759 Warehouse charges.
601.1760 Settlement.

AUTHORITY: §§ 601.1751 to 601.1760 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. Sup. 714b. Interpret or apply sec. 5, 62 Stat. 1072; secs. 301, 401, 63 Stat. 1053; 15 U. S. C. Sup. 714c; 7 U. S. C. Sup. 1447, 1421.

§ 601.1751 *Purpose.* This subpart states additional specific requirements which, together with the general requirements contained in the 1952 C. C. C. Grain Price Support Bulletin 1, apply to loans and purchase agreements under the 1952-Crop Grain Sorghums Price Support Program.

§ 601.1752 *Availability of price support*—(a) *Method of support.* Price support will be made available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever grain sorghums are grown in the continental

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Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Federal Register Division, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

The regulatory material appearing herein is keyed to the Code of Federal Regulations, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended June 19, 1937.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15¢) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D. C.

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

United States, except that farm-storage loans will not be available in areas where the PMA State committee determines that grain sorghums cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support should be made at the office of the PMA county committee which keeps the farm-program records for the farm.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1953, and the applicable documents must be signed by the producer and delivered to the county committee not later than such date.

(e) *Eligible producer.* An eligible producer shall be an individual, partnership, association, corporation, or other legal entity producing grain sorghums in 1952 as landowner, landlord, tenant or sharecropper.

§ 601.1753 *Eligible grain sorghums.* At the time the grain sorghums are placed under loan or delivered under a purchase agreement, they must meet the following requirements:

(a) The grain sorghums must have been produced in the continental United States in 1952 by an eligible producer.

(b) The beneficial interest in the grain sorghums must be in the person tendering the grain sorghums for loan or for delivery under a purchase agreement, and must always have been in him, or must have been in him and a former producer whom he succeeded before the grain sorghums were harvested.

(c) Grain sorghums of any class grading No. 4 or better, or No. 4 "Smutty" or better, and containing not in excess of 13 percent moisture shall be eligible.

(d) The grain sorghums must not grade discolored, or weevily.

(e) If offered as security for a farm-storage loan, the grain sorghums must have been stored in the bin or granary at least 30 days prior to inspection for measurement, sampling, and sealing unless otherwise approved by the PMA State Committee.

§ 601.1754 *Warehouse receipts.* Warehouse receipts, representing grain sorghums in approved warehouse storage to be placed under loan or delivered under a purchase agreement, must meet the requirements below:

(a) Warehouse receipts must be issued in the name of the producer, must be properly endorsed in blank so as to vest title in the holder and must be receipts issued on a warehouse approved by CCC under the Uniform Grain Storage Agreement which indicate that the grain sorghums are insured, or must be receipts issued on warehouses operated by Eastern common carriers under tariffs approved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) Each warehouse receipt or the warehouseman's supplemental certificate (in duplicate) properly identified with the warehouse receipt must show (1) Gross weight, (2) class, (3) grade (including special grades), (4) test weight, (5) moisture, (6) dockage, and (7) any other grading factor(s) when such factor(s) and not test weight, determine the grade.

Also, the warehouse receipt or the warehouseman's supplemental certificate must show whether the grain sorghums arrived by rail, truck or barge. In the case of warehouse receipts issued for grain sorghums delivered by rail or barge, the grading factors on the warehouse receipt must agree with the inbound inspection certificate for the car or barge when such certificate is issued.

(c) A separate warehouse receipt must be submitted for each grade, class, and subclass of grain sorghums.

(d) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 601.1759.

(e) Warehouse receipts representing grain sorghums which have been shipped by rail or water from a country shipping point to a designated terminal point, or shipped by rail or water from a country shipping point and stored in transit to a designated terminal point must be accompanied by registered freight bills, or by a statement signed by the warehouseman which contains the following information and which may be part of the supplemental certificate:

The grain sorghums represented by attached warehouse receipt No. _____ issued by _____ on warehouse located at _____ were received by rail freight from _____ _____
(Station) (County)
_____ point of origin as evidenced
(State)
by freight bill described as follows:

Way-bill, date _____ No. _____
Car initials and No. _____
Freight bill, date _____ No. _____
Origin carrier _____
Full inbound route and junction points _____
_____
Transit weight _____
Freight rate in _____
Amount collected _____
Guaranteed transit balance, if any, of through freight to _____ of _____ per 100 pounds plus tax of _____
Number unused transit stops _____
Penalty, if any, to guarantee minimum proportional rate on outbound billing of _____ cents per 100 pounds _____

Where paid-in freight is based on other than domestic interstate freight rate basis, the difference in rates between the freight paid (plus tax), and the domestic interstate freight rate (plus tax), is _____.

The above-described paid freight bill has been officially registered for transit and will be held in accordance with the applicable provisions of the Uniform Grain Storage Agreement.

_____
(Warehouseman's signature)

_____
(Address)

_____
(Date of signature)

§ 601.1755 *Determination of quantity.* (a) The quantity of grain sorghums placed under farm-storage loan may be determined either by weight or by measurement. The quantity of grain sorghums placed under a warehouse-storage loan or delivered under a farm-storage loan or under a purchase agreement shall be determined by weight.

(b) When a quantity is determined by weight, a unit of 100 pounds shall be determined to be 100 pounds of grain sorghums free of dockage. In determining the quantity of sacked grain sorghums by weight, a deduction of three-fourths of a pound for each sack shall be made.

(c) When the quantity of grain sorghums is determined by measurement, 100 pounds shall be 2.25 cubic feet of grain sorghums testing 56 pounds per bushel. The quantity determined by measurement of grain sorghums having a test weight of less than 56 pounds per bushel shall be adjusted by:

For grain sorghums testing—	*Percent*
56 pounds or over	100
55 pounds or over, but less than 56 pounds	98
54 pounds or over, but less than 55 pounds	96
53 pounds or over, but less than 54 pounds	95
52 pounds or over, but less than 53 pounds	93
51 pounds or over, but less than 52 pounds	91
50 pounds or over, but less than 51 pounds	89
49 pounds or over, but less than 50 pounds	87

(d) The percentage of dockage shall be determined and the weight of such dockage shall be deducted from the gross weight of the grain sorghums in determining the net quantity available for loan or purchase.

§ 601.1756 *Determination of quality.* The class, subclass, grade, grading factors, and all other quality factors shall be determined in accordance with the methods set forth in the Official Grain Standards of the United States for Grain Sorghums, whether or not such determinations are made on the basis of an official inspection.

§ 601.1757 *Maturity of loans.* Loans mature on demand but not later than March 31, 1953.

§ 601.1758 *Determination of support rates.* Basic support rates for grain sorghums placed under loan or delivered under a purchase agreement will be as set forth in this section.

(a) *Basic support rates at designated terminal markets.* (1) Basic support rates per 100 pounds for grain sorghums of the Classes I to IV inclusive, grading No. 2 or better, and containing not in excess of 13 percent moisture, stored in approved warehouses at the terminal markets listed below are as follows:

Terminal market:	*Rate per 100 pounds*
Omaha, Nebr.	2.77
Sioux City, Iowa	2.77
Kansas City, Mo.	2.84
Galveston, Tex.	2.98
Houston, Tex.	2.98
New Orleans, La.	2.98
Memphis, Tenn.	3.07
Los Angeles, Calif.	3.23
San Francisco, Calif.	3.23
St. Louis, Mo.	3.02

(2) Grain sorghums eligible for loan or purchase at the support rates shown in the above schedule must have been shipped on a domestic interstate freight rate basis. On any grain sorghums shipped at other than the domestic interstate freight rate, the support rate at the designated terminal market shall be reduced by the difference between the freight paid (plus tax) and the domestic interstate freight rate (plus tax).

(3) The support rates established for designated terminal markets apply to grain sorghums which have been shipped by rail or water from a country shipping point to one of the designated terminal markets, as evidenced by paid freight bills duly registered for transit privileges: *Provided*, That in the event the amount of paid-in freight is insufficient to guarantee the minimum proportional domestic interstate freight rate from the terminal market, there shall be deducted from the applicable terminal support rate the difference between the amount of freight actually paid in and the amount required to be paid in to guarantee outbound movement at the minimum proportional domestic interstate freight rate.

(4) When shipped by rail or water and stored at any designated terminal market, grain sorghums for which neither registered freight bills nor such freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate, shall have a support rate equal to the terminal rate minus 14 cents per 100 pounds.

(5) For grain sorghums received by truck and stored at any designated terminal market, the support rate shall be determined by making a deduction from the terminal rate as follows:

Terminal located in—	*Amount of deduction (cents per 100 pounds)*
Area I: Arizona, California, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Washington, Utah	22
Area II: Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, Wyoming, Wisconsin	23
Area III: Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia	25
Area IV: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas	25

(b) *Support rates for grain sorghums in approved warehouse-storage at other than designated terminal markets.* (1) The support rates for grain sorghums stored in approved warehouses (other than those situated in the designated terminal markets) which are shipped by rail shall be determined by deducting from the appropriate designated terminal market rate an amount equal to the transit balance, if any (plus tax), of the through-freight rate from point of origin for such grain sorghums to such terminal market: *Provided*, That in the case of grain sorghums stored at any railroad transit point, taking a penalty by reason of out-of-line movement, or for any other reason, to the appropriate designated market, there shall be added to such transit balance an amount equal to any out-of-line costs or other costs incurred in storing grain sorghums in such position.

(2) The warehouse receipts must be accompanied by the original paid freight bills or certificates of the warehouseman and other required documents as set forth in § 601.1754.

(c) *Basic county support rates.* (1) The basic county support rates per 100 pounds of grain sorghums of the Classes I to IV, inclusive, grading No. 2 or better, and containing not in excess of 13 percent moisture are as follows (both farm-storage and country warehouse-storage loans will be made at the support rate established for the county in which the grain sorghums are stored):

County	Rate per hundredweight
ALABAMA	
All counties	$2.55
ARIZONA	
Apache	2.17
Cochise	2.45
Gila	2.12
Graham	2.37
Greenlee	2.22
Maricopa	2.77
Navajo	2.17
Pima	2.66
Pinal	2.77
Santa Cruz	2.61
Yavapai	2.40
Yuma	2.79
ARKANSAS	
All counties	2.55
CALIFORNIA	
Alameda	3.02
Butte	2.90
Colusa	2.91
Contra Costa	3.02
El Dorado	2.88
Fresno	2.90
Glenn	2.88
Imperial	2.88
Kern	2.90
Kings	2.90
Los Angeles	3.00
Madera	2.93
Merced	2.95
Napa	2.99
Riverside	2.91
Sacramento	2.96
San Benito	$2.96
San Bernardino	2.97
San Diego	2.92
San Joaquin	2.98
Santa Cruz	2.97
Solano	3.00
Sonoma	3.00
Stanislaus	2.96
Sutter	2.92
Tehama	2.87
Trinity	2.80
Tulare	2.90
Yolo	2.96
Yuba	2.94
COLORADO	
Adams	2.28
Arapahoe	2.28
Baca	2.29
Bent	2.28
Boulder	2.28
Cheyenne	2.30
Costilla	2.13
Crowley	2.28
Elbert	2.28
El Paso	2.28
Fremont	2.18
Huerfano	2.21
Kiowa	2.30
Kit Carson	2.30
Larimer	2.28
Las Animas	2.27
Lincoln	2.28
Logan	2.28
Morgan	2.28
Otero	2.28
Phillips	2.31
Prowers	2.30
Pueblo	$2.28
Sedgwick	2.28
Teller	2.18
Washington	2.28
Weld	2.28
Yuma	2.29
GEORGIA	
All counties	2.60
INDIANA	
All counties	2.40
IOWA	
All counties	2.35
KANSAS	
Allen	2.50
Anderson	2.52
Atchison	2.55
Barber	2.40
Barton	2.40
Bourbon	2.51
Brown	2.52
Butler	2.44
Chase	2.47
Chautauqua	2.47
Cherokee	2.49
Cheyenne	2.34
Clark	2.35
Clay	2.46
Cloud	2.45
Coffey	2.50
Comanche	2.38
Cowley	2.44
Crawford	2.50
Decatur	2.37
Dickinson	2.44
Doniphan	2.51
Douglas	2.55
Edwards	2.40
Elk	2.47
Ellis	2.40
Ellsworth	2.43
Finney	2.35
Ford	2.38
Franklin	2.55
Geary	2.47
Gove	2.37
Graham	2.40
Grant	2.34
Gray	2.37
Greeley	2.34
Greenwood	2.48
Hamilton	2.34
Harper	2.42
Harvey	2.44
Haskell	2.35
Hodgeman	2.39
Jackson	2.51
Jefferson	2.55
Jewell	2.43
Johnson	2.57
Kearney	2.34
Kingman	2.43
Kiowa	2.40
Labette	2.49
Lane	2.37
Leavenworth	2.57
Lincoln	2.43
Linn	2.51
Logan	2.35
Lyon	2.49
McPherson	2.43
Marion	2.44
Marshall	2.49
Meade	2.35
Miami	2.55
Mitchell	2.43
Montgomery	2.49
Morris	2.46
Morton	2.30
Nemaha	2.50
Neosho	2.50
Ness	2.39
Norton	2.40
Osage	2.51
Osborne	2.42
Ottawa	2.44
Pawnee	2.40
Phillips	2.40
Pottawatomie	2.50
Pratt	2.40
Rawlins	2.35
Reno	2.42
Republic	2.44
Rice	2.43
Riley	2.49
Rooks	2.41
Rush	2.40
Russell	2.41
Saline	$2.43
Scott	2.35
Sedgwick	2.44
Seward	2.33
Shawnee	2.51
Sheridan	2.37
Sherman	2.34
Smith	2.43
Stafford	2.40
Stanton	2.33
Stevens	2.33
Sumner	2.44
Thomas	2.35
Trego	2.40
Wabaunsee	2.49
Wallace	2.34
Washington	2.46
Wichita	2.34
Wilson	2.49
Woodson	2.50
Wyandotte	2.58
LOUISIANA	
All counties	2.55
MINNESOTA	
All counties	2.30
MISSISSIPPI	
All counties	2.55
MISSOURI	
All counties	2.55
NEBRASKA	
Adams	2.43
Antelope	2.41
Arthur	2.28
Banner	2.23
Blaine	2.33
Boone	2.43
Box Butte	2.26
Boyd	2.37
Brown	2.33
Buffalo	2.40
Burt	2.48
Butler	2.47
Case	2.50
Cedar	2.40
Chase	2.21
Cherry	2.30
Cheyenne	2.28
Clay	2.44
Colfax	2.47
Cuming	2.47
Custer	2.36
Dakota	2.44
Dawes	2.22
Dawson	2.37
Deuel	2.28
Dixon	2.43
Dodge	2.49
Douglas	2.51
Dundy	2.31
Fillmore	2.46
Franklin	2.41
Frontier	2.37
Furnas	2.39
Gage	2.48
Garden	2.26
Garfield	2.38
Gosper	2.39
Grant	2.27
Greeley	2.41
Hall	2.41
Hamilton	2.43
Harlan	2.40
Hayes	2.32
Hitchcock	2.34
Holt	2.39
Hooker	2.30
Howard	2.41
Jefferson	2.47
Johnson	2.48
Kearney	2.41
Keith	2.28
Keya Paha	2.33
Kimball	2.28
Knox	2.39
Lancaster	2.49
Lincoln	2.31
Logan	2.33
Loup	2.37
McPherson	2.31
Madison	2.43
Merrick	2.43
Morrill	2.24
Nance	2.44
Nemaha	2.48
Nuckolls	2.44

County	Rate per hundredweight
NEBRASKA—COD.	
Otoe	$2.48
Pawnee	2.49
Perkins	2.32
Phelps	2.40
Pierce	2.42
Platte	2.45
Polk	2.45
Red Willow	2.37
Richardson	2.50
Rock	2.34
Saline	2.48
Sarpy	2.51
Saunders	2.49
Scotts Bluff	2.22
Seward	2.47
Sheridan	2.26
Sherman	2.39
Sioux	2.21
Stanton	2.44
Thayer	2.46
Thomas	2.32
Thurston	2.46
Valley	2.38
Washington	2.49
Wayne	2.41
Webster	2.42
Wheeler	2.42
York	2.44
NEW MEXICO	
Bernalillo	2.14
Catron	2.10
Chaves	2.26
Colfax	2.15
Curry	2.30
De Baca	2.21
Dona Ana	2.14
Eddy	2.23
Grant	1.89
Guadalupe	2.17
Harding	2.21
Hidalgo	2.15
Lea	2.29
Lincoln	2.14
Luna	2.14
McKinley	2.14
Mora	2.14
Otero	2.14
Quay	2.27
Roosevelt	2.28
Sandoval	2.14
San Juan	1.73
San Miguel	2.14
Santa Fe	2.06
Sierra	2.14
Socorro	2.09
Torrance	2.13
Union	2.14
Valencia	2.14
NORTH CAROLINA	
All counties	2.60
NORTH DAKOTA	
All counties	2.25
OKLAHOMA	
Adair	2.44
Alfalfa	2.38
Atoka	2.39
Beaver	2.28
Beckham	2.33
Blaine	2.36
Bryan	2.37
Caddo	2.36
Canadian	2.36
Carter	2.36
Cherokee	2.41
Choctaw	2.39
Cimarron	2.26
Cleveland	2.36
Coal	2.39
Comanche	2.36
Cotton	2.36
Craig	2.46
Creek	2.38
Custer	2.35
Delaware	2.45
Dewey	2.35
Ellis	2.33
Garfield	2.37
Garvin	2.36
Grady	2.36
Grant	2.38
Greer	2.33
Harmon	2.33
Harper	2.31
Haskell	2.44
Hughes	2.39
Jackson	2.36
Jefferson	2.36
Johnston	2.36
Kay	$2.40
Kingfisher	2.36
Kiowa	2.36
Latimer	2.44
Le Flore	2.46
Lincoln	2.36
Logan	2.36
Love	2.36
McClain	2.36
McCurtain	2.39
McIntosh	2.41
Major	2.36
Marshall	2.36
Mayes	2.43
Murray	2.36
Muskogee	2.43
Noble	2.38
Nowata	2.47
Okfuskee	2.39
Oklahoma	2.36
Okmulgee	2.39
Osage	2.42
Ottawa	2.46
Pawnee	2.38
Payne	2.34
Pittsburg	2.42
Pontotoc	2.38
Pottawatomie	2.36
Pushmataha	2.42
Roger Mills	2.32
Rogers	2.44
Seminole	2.38
Sequoyah	2.44
Stephens	2.36
Texas	2.27
Tillman	2.36
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Woods	2.36
Woodward	2.33
SOUTH CAROLINA	
All counties	2.60
SOUTH DAKOTA	
All counties	2.30
TENNESSEE	
All counties	2.55
TEXAS	
Anderson	2.57
Andrews	2.32
Angelina	2.63
Aransas	2.46
Archer	2.33
Armstrong	2.33
Atascosa	2.45
Austin	2.71
Bailey	2.33
Bandera	2.43
Bastrop	2.62
Baylor	2.33
Bee	2.51
Bell	2.55
Bexar	2.48
Blanco	2.53
Borden	2.33
Bosque	2.47
Bowie	2.49
Brazoria	2.73
Brazos	2.67
Brewster	2.22
Briscoe	2.33
Brooks	2.38
Brown	2.41
Burleson	2.66
Burnet	2.48
Caldwell	2.58
Calhoun	2.58
Callahan	2.36
Cameron	2.29
Camp	2.45
Carson	2.33
Cass	2.47
Castro	2.33
Chambers	2.64
Cherokee	2.55
Childress	2.33
Clay	2.36
Cochran	2.33
Coke	2.33
Coleman	2.41
Collin	2.44
Collingsworth	2.33
Colorado	2.68
Comal	2.53
Comanche	$2.42
Concho	2.40
Cooke	2.40
Coryell	2.50
Cottle	2.33
Crockett	2.29
Crosby	2.33
Dallam	2.26
Dallas	2.46
Dawson	2.33
Deaf Smith	2.33
Delta	2.41
Denton	2.42
De Witt	2.39
Dickens	2.33
Dimmit	2.26
Donley	2.33
Duval	2.41
Eastland	2.41
Ector	2.29
Edwards	2.32
Ellis	2.47
El Paso	2.21
Erath	2.43
Falls	2.57
Fannin	2.41
Fayette	2.66
Fisher	2.33
Floyd	2.33
Foard	2.33
Fort Bend	2.72
Franklin	2.44
Freestone	2.56
Frio	2.43
Gaines	2.33
Galveston	2.73
Garza	2.33
Gillespie	2.41
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Goliad	2.57
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(2) Where the State committee determines that State or district weed control laws effect the grain sorghums crop the support rate will be 10 cents below the applicable county support rate set forth in the schedule in subparagraph (1) of this paragraph. If upon delivery of the grain sorghums to CCC, the producer supplies a certificate indicating that the grain sorghums comply with the weed control laws, the producer will be credited with the amount of the differential in determining the settlement value.

(d) *Discounts.* (1) discount for grain sorghums which grade No. 3 and contain not in excess of 13 percent moisture shall be 8 cents per 100 pounds; and for grain sorghums which grade No. 4 and contain not in excess of 13 percent moisture, 16 cents per 100 pounds.

(2) Grain sorghums which grade "smutty" shall be discounted 5 cents per 100 pounds.

(3) The support rates for mixed grain sorghums (Class V) shall be 3 cents per 100 pounds less than the support rates for grain sorghums of the classes I to IV inclusive.

§ 601.1759 *Warehouse charges.* (a) Warehouse receipts and the grain sorghums represented thereby stored in approved warehouses operating under the Uniform Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the grain is deposited in the warehouse for storage. There shall be deducted in computing the amount of the loan or purchase price an amount, determined by the President, CCC, to cover costs of storage from the date of deposit through March 31, 1953. The amounts to be deducted, depending on the date of deposit, will be published as an amendment to this subpart. If the date of deposit is not shown on the warehouse receipt, the date of the warehouse receipt shall be deemed the date of deposit.

(b) Warehouse receipts and the grain sorghums represented thereby stored in approved warehouses operated by Eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission. There shall be deducted in computing the loan or purchase price (except as provided in paragraph (c) (2) in computing the loan or purchase price of § 601.1760) the amount of the approved tariff rate for storage (not including elevation), which will accumulate from the date of deposit to the program maturity date. The county committee shall request the PMA commodity office to determine the amount of such charges.

§ 601.1760 *Settlement*—(a) *Farm-storage loans.* (1) In the case of grain sorghums delivered to CCC from farm-storage under the loan program, settlement shall be made at the applicable support rate for the approved point of delivery. The support rate shall be applied to the grade and quality of the

total quantity of grain sorghums delivered.

(2) If the grain sorghums under farm-storage loan are, upon delivery, of a grade and/or quality for which no support rate has been established, the settlement value shall be the support rate established for the grade and/or quality of the grain sorghums placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade and/or quality placed under loans and the market price of the grain sorghums delivered, as determined by CCC.

(3) If farm-stored grain sorghums are delivered to CCC prior to March 31, 1953, upon request of the producer and with the approval of CCC, the loan settlement shall be reduced by the applicable rate of storage charges per 100 pounds, determined as set forth in § 601.1759.

(b) *Warehouse-storage loans.* (1) In the case of warehouse receipts issued on a warehouse approved under the Uniform Grain Storage Agreement, if the warehouse loan is not redeemed and the warehouse receipt or the accompanying supplemental certificate contains a statement in substantially the following form "Full storage charges, not including receiving charges, paid through March 31, 1953, $------," a refund in the amount of the smaller of (i) the storage charges prepaid by the producer, or (ii) the amount of the storage charges deducted at the time the loan was completed, will be made to the producer by the PMA county office.

(2) For grain sorghums stored in approved warehouses operated by Eastern common carriers, if the warehouse loan is not redeemed and the supplemental certificate and delivery order contains a statement in substantially the following form "Full storage charges paid through March 31, 1953, $------," a refund will be made to the producer by the PMA county office of the amount of storage deducted at the time the loan was completed plus any elevation charge which was prepaid by the producer.

(c) *Purchase agreement.* (1) (i) Grain sorghums delivered to CCC under a purchase agreement must meet the requirements of grain sorghums eligible for loan. The purchase rate per 100 pounds of eligible grain sorghums shall be the support rate established for the approved point of delivery, subject to deduction of warehouse charges in accordance with § 601.1759, except as provided in subparagraph (2) of this paragraph.

(ii) In the case of warehouse receipts issued on a warehouse approved under the Uniform Grain Storage Agreement, if the warehouse receipt or the accompanying supplemental certificate representing grain sorghums stored in the warehouse contains a statement in substantially the following form "Full storage charges, not including receiving charges, paid through March 31, 1953, $------," the producer shall be given credit for the smaller of (*a*) the storage charges prepaid by the producer, or (*b*) the amount of the warehouse storage charges determined according to the time of deposit as outlined in § 601.1759 at the time the settlement value of the commodity delivered is determined.

(2) For grain sorghums stored in approved warehouses operated by Eastern common carriers, if the supplemental certificate and delivery order representing grain sorghums stored in the warehouse contains a statement in substantially the following form "Full storage charges paid through March 31, 1953, $------," no deduction for storage shall be made from the support rate at the time the settlement value of the commodity delivered is determined. The producer shall be given credit for the amount of any elevation charge prepaid at the time the settlement value of the commodity delivered is determined, if he presents evidence showing such payment.

(d) *Track-loading.* A track-loading payment of 4 cents per 100 pounds will be made to the producer on grain sorghums delivered to CCC on track at a country point.

Issued this 18th day of April, 1952.

[SEAL] JOHN H. DEAN,
Acting Vice President,
Commodity Credit Corporation.

Approved:

HAROLD K. HILL,
Acting President,
Commodity Credit Corporation.

[F. R. Doc. 52-4578; Filed, Apr. 22, 1952; 8:55 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 42-11]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

PILOT TRAINING AND CHECK PROGRAM

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 17th day of April 1952.

Part 42 of the Civil Air Regulations contains no specific provision requiring either chief pilots or check pilots to be designated and furnished by an operator. As a result of recent investigations which the Board has conducted into the operations of certain of the air carriers operating under Part 42, it has become evident that there is a lack of properly centralized responsibility for flight personnel in certain cases which may vitally affect the safety of flight operations. This lack is reflected at times in inadequate operating procedures, carelessness in the maintenance of pilot qualifications and records relative thereto, and generally in poor pilot flight discipline.

The Civil Aeronautics Act requires the Board to give full consideration to the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest (§ 601 (b)). The Board believes that this duty can be discharged only by ensuring that there is one person responsible for the qualification of pilots used by each air carrier, or operating division thereof, and that each air carrier has a system for regularly checking its pilots, passing on their qualifications, and planning a program for the maintenance of proper pilot proficiency. The Government should not be expected to carry out the primary obligation of management to provide fully qualified personnel, although it is its duty to scrutinize the programs of the carrier for the accomplishment of this objective and to see that such programs are followed.

Many Part 42 air carriers have a sound flight operations organization, headed by a responsible chief pilot, and which includes one or more competent check pilots. However, the lack of sound organization in some instances creates a hazard which endangers the lives of the passengers, of the people on the surface, or other air commerce, and of the flight crew themselves.

Another aspect of this situation which is a source of potential difficulty in maintaining a sound flight operations organization is the prevalent practice of certain irregular air carriers of employing itinerant pilots to operate their flights. Pilots are employed to fly one, two, or three flights, during peak activity and then are released to seek similar short-term employment with other irregular air carriers. The Board believes it is unlikely in such circumstances that the intent of the present Civil Air Regulations is fully carried out with respect to the pilot's proficiency for the particular operation involved. Therefore, in order to assure that each such air carrier carries out its responsibility for utilizing only fully qualified pilots, the Board is adopting rules which will provide specifically for:

(1) The immediate designation of a chief pilot responsible for assuring the proficiency of all pilots utilized.

(2) The designation by the air carrier not later than April 30, 1952, of an adequate number of check pilots acceptable to the Administrator.

(3) An equipment or instrument proficiency check, or both, as required by § 42.44, given either by a representative of the Administrator or by a check pilot of the carrier within 6 months prior to April 30, 1952, and

(4) Inclusion in the training program of periodic written examinations on the contents of the Operations Manual and familiarity with various types of instrument approach and navigational facilities and procedures.

In Special Civil Air Regulation Number SR-379 the Board found from preliminary data obtained from the formal and informal investigation conducted by it, and from other sources available to it, an apparent laxness in operating practices and procedures followed by the carriers investigated in either or both of the following respects, among others:

(1) Failure to maintain pilot training and proficiency at a desirably high level;

(2) Failure on the part of the companies and their personnel to follow certain operating procedures established in accordance with the Civil Air Regulations.

Since the date of the issuance of the aforesaid regulation the Board has received no information or indication of any kind which would cause it to alter such findings. The action taken herein is designed to meet, in part, one of the problems disclosed by these investigations by requiring, to the extent that it is not already required, sound adminis-

tration of flight operations for all air carriers operating large aircraft. There will be no financial burden on those carriers who have lived up to the intent of the regulations, and the burden on other carriers will be small.

In accordance with the provisions of section 1005 (a) of the Civil Aeronautics Act, the Board is, by notice of proposed rule making issued with this emergency amendment, initiating rule-making proceedings on the rules set forth herein. The provisions of this emergency amendment, therefore, may be altered or modified when the Board takes final action in such rule-making proceedings.

The Board is of the opinion that the lack of a sound flight operations structure in some of the Part 42 operators is so serious that an emergency requiring immediate action exists in respect of safety in air commerce, that notice and public procedure hereon are impracticable and, to the extent that such procedure would delay the coming into effect of this rule at the earliest possible date, are contrary to the public interest, and that the following regulation is reasonable and is essential in the interest of safety in air commerce to meet such emergency pending completion of the rule-making proceedings above referred to.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended) effective as hereinafter indicated:

1. By amending § 42.40, effective immediately, to read as follows:

§ 42.40 *Airman requirements.* (a) No air carrier shall utilize an individual as an airman unless he has met the appropriate requirements of the Civil Air Regulations.

(b) Each air carrier operating large aircraft shall designate a chief pilot who shall be responsible for seeing that no individual is assigned as a pilot unless he has met the appropriate requirements of the Civil Air Regulations.

2. By amending § 42.44 (a), effective April 30, 1952, to read as follows:

§ 42.44 *Recent flight experience requirements for flight crew members.* * * *

(a) *Pilots.* (1) Within the preceding 90 days a pilot shall have made at least three take-offs and landings in an aircraft of the same type on which he is to serve. For night flight one of the take-offs and landings required above shall have been made at night.

(2) Within the preceding 6 months a pilot on large aircraft shall have successfully accomplished an equipment check on aircraft of the type on which he is to serve. Such equipment check shall be given by an authorized representative of the Administrator or a check pilot of the air carrier.

(3) Within the preceding 6 months the pilot in command on any large aircraft, or on any aircraft under IFR conditions, shall have successfully accomplished an instrument check demonstrating his ability to pilot and navigate by instruments, to accomplish a standard instrument approach using radio range facilities, and to accomplish an instrument approach in accordance with ILS, GCA, or D/F procedures when such facilities are to be used. This instrument check shall be given by an authorized representative of the Administrator or a check pilot of the air carrier, on an aircraft which the air carrier is authorized to use.

3. By amending § 42.45, effective April 30, 1952, to read as follows:

§ 42.45 *Proficiency of crew members serving on large aircraft.* Each air carrier shall establish a training program sufficient to ensure that each crew member used by the air carrier is adequately trained and maintains adequate proficiency to perform the duties to which he is to be assigned.

(a) The training program shall consist of appropriate ground and flight training, including all subjects contained in the Operations Manual. Procedures for each crew function shall be standardized to the extent that each flight crew member will know the functions for which he is responsible.

(b) No air carrier shall initially assign an individual as a pilot unless he has satisfactorily accomplished a written examination by the carrier to ensure his familiarity with the contents of the Operations Manual and with all types of instrument approach and navigational facilities and procedures to be used. All pilots utilized by an air carrier shall accomplish such written examinations at intervals not to exceed six months.

(c) Each air carrier shall provide a sufficient number of check pilots to be able through its own personnel to give each pilot the checks necessary to comply with the requirements of § 42.44 (a). Check pilots shall make written reports of all pilot deficiencies disclosed by checks, and the carrier shall make provision for such additional pilot training as may be required in each particular case.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply secs. 601, 604, 1005, 52 Stat. 1007, 1010, 1023, secs. 1, 2, 62 Stat. 1216; 49 U. S. C. 551, 554, 645, 452)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 52-4573; Filed, Apr. 22, 1952; 8:54 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of International Trade

[5th Gen. Rev. of Export Regs, Amdt. P. L. 84]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

DELETIONS FROM POSITIVE LIST

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

The following commodities are deleted from the Positive List:

Dept. of Commerce Sched. B No.	Commodity
820585	Benzene hexachloride and compositions or formulations thereof, containing less than 20 percent sulphur [1]

[1] By this amendment the description of the commodities remaining on the Positive List is revised to read as follows:

820585 Benzene hexachloride formulations containing 1 percent or more gamma isomer of benzene hexachloride and 20 percent or more sulphur (report sulphur content in percent; report weight of the gamma isomer as net quantity) (formerly 820590) (see § 373.24 of this subchapter).

(Sec. 3, 63 Stat. 7, Pub. Law 33, 82d Cong.; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR 1948 Supp.)

This amendment shall become effective as of April 22, 1952.

LORING K. MACY, *Director, Office of International Trade.*

[F. R. Doc. 52-4582; Filed, Apr. 22, 1952; 8:57 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5762]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

ALBERT COHN ET AL.

Subpart—*Advertising falsely or misleadingly:* § 3.130 *Manufacture or preparation.* Subpart—*Using misleading name—Goods:* § 3.2310 *Manufacture or preparation.* In connection with the offering for sale, sale, and distribution of stationery products in commerce, (1) using the words "engraved" or "engraving", either alone or in conjunction with any other word or words, to designate, describe or refer to stationery products on which the lettering, inscriptions or designs have been printed from inked type faces and have been given a raised effect by an embossing process in which no plates have been used and the embossing effect has been procured by the application of powders to wet ink in what has been described as the thermographic process; or, (2) using the words "engraved" or "engraving", either alone or in conjunction with any other word or words, to designate, describe or refer to stationery products unless and until the respondents produce the stationery products so designated, described or referred to by a process which consists essentially in the application of blank stationery to an inked intaglio plate under pressure sufficient to force the surface of the stationery into the letters or designs which are cut or incised on the plate so that the ink in such plate adheres to the stationery to form letters, words, characters or designs which are in relief and raised from the general plane of the surface of the stationery; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Albert Cohn et al., doing business as Professional Reminder Service, Docket 5762, February 11, 1952]

In the Matter of Albert Cohn, Irving Kurash and Louis Kurash, Partners, Doing Business as Professional Reminder Service

This proceeding was heard by J. Earl Cox, hearing examiner, upon the complaint of the Commission, respondents' answer, and a stipulation whereby it was stipulated and agreed that a statement of facts signed and executed by said respondents and by counsel supporting the complaint, might be taken as the facts in the proceeding and in lieu of testimony in support of and in opposition to the charges stated in the complaint, and might serve as the basis for findings as to the facts and conclusion based thereon and order disposing of the proceeding, without the presentation of proposed findings and conclusions or oral argument.

Thereafter the proceeding regularly came on for final consideration by said hearing examiner upon the complaint, answer, and stipulation, which expressly provided that upon appeal to or review by the Commission, it might be set aside by the Commission and the matter remanded for further proceedings under the complaint, and which had been approved by said examiner, who, having duly considered the record in the matter, and having found that the proceeding was in the interest of the public, made his initial decision comprising certain findings as to the facts,[1] conclusion [1] drawn therefrom, and order to cease and desist.

No appeal having been filed from said initial decision of said trial examiner as provided for in Rule XXII, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision, including said order to cease and desist, accordingly, under the provisions of said Rule XXII became the decision of the Commission on February 11, 1952.

The said order to cease and desist is as follows:

It is ordered, That the respondents, Albert Cohn, Irving Kurash and Louis Kuarash, individually and as partners, doing business as Professional Reminder Service, their representatives, agents and employees, directly or indirectly, through any corporate or other device, in connection with the offering for sale, sale, and distribution of stationery products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Using the words "engraved" or "engraving", either alone or in conjunction with any other word or words, to designate, describe or refer to stationery products on which the lettering, inscriptions or designs have been printed from inked type faces and have been given a raised effect by an embossing process in which no plates have been used and the embossing effect has been procured by the application of powders to wet ink in what has been described as the termographic process.

(2) Using the words "engraved" or "engraving" either alone or in conjunction with any other word or words, to designate, describe or refer to stationery products unless and until the respondents produce the stationery products so designated, described or referred to by a process which consists essentially in the application of blank stationery to an inked intaglio plate under pressure sufficient to force the surface of the stationery into the letters or designs which are cut or incised on the plate so that the ink in such plate adheres to the stationery to form letters, words, characters or designs which are in relief and raised from the general plane of the surface of the stationery.

J. Earl Cox,
Hearing Examiner.

December 28, 1951.

By "Decision of the Commission and order to file report of compliance", Docket 5762, February 11, 1952, which announced and decreed fruition of said initial decision on February 11, 1952, report of compliance with the said order was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: February 11, 1952.

By the Commission.

[SEAL] D. C. Daniel,
Secretary.

[F. R. Doc. 52-4566; Filed, Apr. 22, 1952; 8:53 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52975]

PART 1—CUSTOMS DISTRICTS AND PORTS

CUSTOMS COLLECTION DISTRICTS AND PORTS

Effective 30 days from the date of publication of this notice in the FEDERAL REGISTER, § 1.1 (c), Customs Regulations of 1943 (19 CFR 1.1 (c)), as amended, is further amended by inserting an asterisk before the word "Mayaguez" and an asterisk before the word "Ponce" where those words appear under the heading "ports of entry" for District No. 49, Puerto Rico, thus making those ports, ports of documentation.

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624. Interprets or applies sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, secs. 1, 2, 3, 44 Stat. 1381, as amended, 1382; 5 U. S. C. 281-281b, 19 U. S. C. 1, 2)

The basis of the amendment is section 1 of the act of February 16, 1925 (46 U. S. C. 18), and its purpose is to provide a more efficient service to the owners of vessels in the ports of Mayaguez and Ponce, Puerto Rico, and in the immediate vicinity of those ports, decreasing materially the distance to be traveled by owners of vessels in connection with the documentation of their craft.

[SEAL] Frank Dow,
Commissioner of Customs.

Approved: April 15, 1952.

John S. Graham,
Acting Secretary of the Treasury.

[F. R. Doc. 52-4572; Filed, Apr. 22, 1952; 8:54 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter I—Home Loan Bank Board, Housing and Home Finance Agency

[No. 5127]

PART 163—OPERATIONS

AMENDMENTS LIFTING RESTRICTIONS ON LENDING BEYOND FIFTY MILES AS TO LOANS INSURED BY FEDERAL HOUSING ADMINISTRATOR

April 16, 1952.

Resolved that, pursuant to Part 108 of the general regulations of the Home Loan Bank Board (24 CFR Part 108) and § 167.1 of the rules and regulations for Insurance of Accounts (24 CFR 167.1), notice and public procedure having been duly afforded (17 F. R. 668), effective April 23, 1952, paragraph (b) of § 163.9 of the rules and regulations for insurance of accounts (24 CFR 163.9) is hereby amended to read as follows:

(b) Any insured institution may, without approval of the Corporation, to the extent it has legal power to do so,

(1) Make, or invest its funds in, loans secured by real estate located in other territory more than 50, but not more than 100, miles from its principal office, or

(2) Purchase any loan secured by a first lien on a home, or a combination home and business property which is used in part for business purposes and in part for residential purposes for not more than four families where the use as a residence is of a bona fide character, located in other territory more than 100 miles from its principal office: *Provided*, That each such loan will be serviced under a servicing agreement by an insured institution of the locality in which the security is situated,

which are insured, or as to which such institution is insured, or as to which a commitment for any such insurance has been made under the provisions of the National Housing Act, as now or hereafter amended: *Provided*, That the total amount so invested shall not exceed 15 per centum of its assets.

and § 163.10 of the rules and regulations for Insurance of Accounts (24 CFR 163.10) is hereby amended by striking the period at the end thereof, inserting a comma, and adding the following: "or the provisions of the National Housing Act, as now or hereafter amended."

Resolved further that the effect of these amendments being to remove a re-

[1] Filed as part of the original document.

striction upon insured institutions, deferment of the effective date of such amendments is not required.

(Sec. 402, 48 Stat. 1256, as amended; 12 U. S. C. 1725. Interprets or applies Sec. 403, 48 Stat. 1257, as amended; 12 U. S. C. 1726)

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE, *Secretary.*

[F. R. Doc. 52-4569; Filed, Apr. 22, 1952; 8:54 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 526—INDUSTRIES OF A SEASONAL NATURE

NORTHERN BRANCH OF CRUSHED STONE INDUSTRY; AMENDMENT TO DETERMINATION RELATING TO BLUE STONE QUARRY, INC.

The determination that the northern branch of the crushed stone industry is an industry of a seasonal nature within the meaning of section 7 (b) (3) of the Fair Labor Standards Act of 1938 (52 Stat. 1063; 29 U. S. C. 207 (b) (3)) was enlarged on October 28, 1950 (15 F. R. 7244) to include the plant of Blue Stone Quarry, Inc. at Acushnet, Bristol County, Massachusetts. Since that time title to such quarry was transferred to Warren Brothers Roads Company. The company states that no change has taken place either in the management or in the operations of the quarry.

Accordingly, I hereby find that the plant of Warren Brothers Roads Company of Acushnet, Bristol County, Massachusetts, operates in the same manner and for the same reasons as the other plants in the northern branch of the crushed stone industry as defined in the determination of July 8, 1940 (5 F. R. 2526). Therefore, the order of October 28, 1950, referred to above is hereby amended by substituting such plant of Warren Brothers Roads Company for that of Blue Stone Quarry, Inc.

This determination is to become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 18th day of April 1952.

WM. R. MCCOMB, *Administrator, Wage and Hour Division.*

[F. R. Doc. 52-4571; Filed, Apr. 22, 1952; 8:54 a. m.]

TITLE 32—NATIONAL DEFENSE

Subtitle A—Office of the Secretary of Defense

PART 31—DEFENSE CONTRACT FINANCING POLICY

EDITORIAL NOTE: Part 31 is superseded by Part 431 of Chapter IV of this title.

Chapter IV—Joint Regulations of the Armed Forces

Subchapter D—Defense Contract Financing

PART 431—DEFENSE CONTRACT FINANCING REGULATIONS

Sec.

AUTHORITY: §§ 431.1 to 431.60 issued under sec. 5, 40 Stat. 415, as amended, sec. 704, 64 Stat. 816, Pub. Law 96, 82d Cong.; 50 U. S. C. App. 5, 50 U. S. C. App. Sup. 2154. Interpret or apply R. S. 3648, as amended, 37 Stat. 32, sec. 201, 55 Stat. 839, as amended, sec. 5, 62 Stat. 23, sec. 301, 64 Stat. 800, Pub. Law 96, 82d Cong.; 31 U. S. C. 529, 34 U. S. C. 582, 50 U. S. C. App. Sup. 611, 41 U. S. C. Sup. 154, 50 U. S. C. App. Sup. 2091, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR 1950 Supp., E. O. 10210, Feb. 2, 1951, 16 F. R. 1049; 3 CFR 1951 Supp.

§ 431.1 *Scope.* The regulations in this part, issued jointly by the Department of the Army, Department of the Navy, and Department of the Air Force, with the approval of the Assistant Secretary of Defense (Comptroller), cover the financing of contracts and subcontracts for the national defense, by outlining the methods of financing, stating policies, and contract clauses, and outlining procedures. They are applicable to the financing of all types of contracts, under the Armed Services Procurement Act of 1947, as amended, the First War Powers Act, 1941, as amended, and the Defense Production Act of 1950, as amended.

§ 431.2 *Application.* The regulations in this part supersede all regulations, directives, procedures, and instructions inconsistent herewith.

§ 431.3 *Implementation.* The regulations in this part shall be distributed promptly to all personnel concerned with procurement and with contract financing, including Contracting Officers, for information and compliance. Copies of all implementing regulations, directives, procedures, and instructions, as issued from time to time within the Military Departments, at all levels, shall be furnished promptly to the Army Comptroller, in the Department of the Army, the Assistant Comptroller, Accounting, Audit and Finance, in the Department of the Navy, and the Deputy for Contract Financing to the Assistant Secretary (Management) in the Department of the Air Force, with an additional copy to be forwarded by those contract financing offices, respectively, to the Assistant Secretary of Defense (Comptroller). Changes and additions for the regulations in this part will be developed within the Contract Finance Committee, in the manner contemplated by the memorandum of 14 October 1950, from the Deputy Secretary of Defense (Appendix 1).

SUBPART A—INTRODUCTION

§ 431.10 *Scope of subpart.* This subpart describes the methods of contract financing by guaranteed loans, advance payments, and progress payments (not including payments for partial deliveries accepted by the Government under a contract), and states basic authority.

§ 431.11 *Guaranteed loans; authority.* (a) Under section 301 (a) of the Defense Production Act of 1950, and section 301 of Executive Order No. 10161, of September 9, 1950,[1] the Department of the Army, the Department of the Navy, and the Department of the Air Force, among others, are designated as "guaranteeing agencies," and authorized by section 302 (a) of Executive Order No. 10161 "to guarantee in whole or in part any public or private financing institution (including any Federal Reserve Bank), by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan . . . which may be made by such financing institution for the purpose of financing any contractor, subcontractor, or other person in connection

[1] 15 F. R. 6105; 3 CFR 1950 Supp.

with the performance, or in connection with or in contemplation of the termination, of any contract or other operation deemed by the guaranteeing agency to be necessary to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense."

(b) As defined in section 702 (d) of the Defense Production Act of 1950, "the term 'national defense' means the operations and activities of the armed forces, the Atomic Energy Commission, or any other Government department or agency directly or indirectly and substantially concerned with the national defense, or operations or activities in connection with the Mutual Defense Assistance Act of 1949, as amended."

§ 431.12 *Guaranteed loans; description.* Guaranteed loans, usually called "V-loans," are essentially the same as other loans made by financing institutions without guarantee, except that under a standard form of guarantee agreement the guaranteeing agency is obligated on demand of the lender to purchase a stated percentage of the loan and to share losses in the amount of the guaranteed percentage. Guaranteed loans afford an especially convenient medium for financing borrowers who hold subcontracts, or numerous prime contracts, or prime contracts with several contracting agencies. Funds are disbursed and collected by the lending institution, and its personnel administer the loan. Government funds are not involved except for purchases of the guaranteed portion of loans or settlement of losses.

§ 431.13 *Advance payments; authority.* Advance payments on contracts negotiated pursuant to the Armed Services Procurement Act of 1947 (Public Law 413, 80th Congress) are authorized in accordance with the provisions of section 5 (a) of that act. Advance payments on all contracts, including those contracts awarded on competitive bids after formal advertising, are authorized pursuant to the First War Powers Act, 1941, as amended by the Act of January 12, 1951 (Public Law 921, 81st Congress), Executive Order No. 10210,[2] and regulations issued thereunder.

§ 431.14 *Advance payments; description.* Advance payments are advances of money, made by the Government to a contractor prior to, in anticipation of, and for the purpose of complete performance under a contract or contracts. Advance payments are made only to prime contractors. They are expected to be liquidated from payments due to the contractor incident to performance of contracts. Since they are not measured by performance, they differ from partial, progress, or other payments made because of and on the basis of performance or part performance of a contract. Advance payments may be made to prime contractors for the purpose of making sub-advances to subcontractors.

§ 431.15 *Progress payments; authority.* The authority to make progress payments is subject to the provisions of section 3648, Revised Statutes, 31 U. S. C. Section 529, and in addition, for the Department of the Navy, 34 U. S. C. Section 582.

§ 431.16 *Progress payments; description.* The term "progress payments" (sometimes referred to as partial payments), as used in this part, signifies payments made as work progresses under a contract, upon the basis of costs incurred, of percentage of performance accomplished, or of a particular stage of completion. As used in the regulations in this part these terms do not include payments for partial deliveries accepted by the Government under a contract, or partial payments on contract termination claims.

SUBPART B—BASIC POLICIES

§ 431.20 *Scope of subpart.* This subpart sets forth basic policies applicable to guaranteed loans, advance payments, and, in the case of progress payments to the extent relevant. Policies and procedures more particularly pertaining to the specific methods of contract financing are contained in the subparts of this part relating to each method of financing. Regulations are in course of development concerning progress payments.

§ 431.21 *General.* Basic defense contract financing policy is stated in the memorandum of 14 October 1950, from The Deputy Secretary of Defense (Appendix 1). Basic policies as to advance payments are contained in the memorandum of 6 April 1951 from The Deputy Secretary of Defense, as supplemented by the Department of Defense directive dated 7 November 1951 (Appendix 2).

§ 431.22 *Purpose of contract financing.* The providing of funds for payment of expenses of performance of contracts is an essential element of defense production. Contract financing is to be regarded as a useful working tool that may be used to the benefit of the Government, for aiding procurement by expediting performance of defense contracts and subcontracts. The contract financing system makes possible production in volume that could not be accomplished otherwise.

§ 431.23 *Facilities expansion.* As stated in the memorandum of 1 February 1951 from The Deputy Secretary of Defense (Appendix 3), guaranteed loans will be established primarily for working capital purposes and the guarantee authority will not be used for loans for facilities expansion. Since advance payments and progress payments should be self-liquidating from contract performance, they are not used to finance fixed asset acquisitions for contractor ownership. These limitations are not intended to apply to contracts under which facilities are being acquired for Government ownership.

§ 431.24 *Financial responsibility of contractors.* Financial difficulties encountered by contractors and subcontractors may (a) disrupt production schedules, (b) cause wastage of manpower and materials, and (c) if connected with guaranteed loans, advance payments, or progress payments, result in monetary loss to the Government. Also, if financial crises occur in the course of a contractor's production, the need for continued production may make guaranteed loans or advance payments imperative for continuance of such production, even though monetary losses may be likely under the circumstances. In order to reduce these hazards so far as possible, contracts should be entered into only with those potential contractors meeting the requirements of §§ 401.406 to 401.406–5, or § 402.101 of this chapter, and who have the financial capacity or credit (giving due regard to the availability of progress payments, guaranteed loans, and advance payments), technical skill, management competence, and plant capacity and facilities (including subcontracting capacity) reasonably to assure their ability to perform their contracts in accordance with their terms. Care should also be taken to the extent practicable to avoid the placement of additional contracts or subcontracts with contractors in situations where additional contracts will overload the contractor's production capacity, overextend his financial resources and credit, and thus tend to interfere with timely performance of contracts on hand, and create need for additional contract financing arrangements, which may be impossible to establish on a prudent basis. In all cases, whether involving formal advertising or negotiation, it must be determined that the contractor is financially and otherwise able to perform the contract. In addition, consideration must be given to the judgment, skill, and integrity of the potential contractor, and to his reputation and experience, including prior work of a similar nature done by him, and the other factors set forth in §§ 401.406 to 401.406–5 or § 402.101 of this chapter, as appropriate. Persons placing subcontracts, at all levels of subcontracting, should be encouraged to apply these standards in placing subcontracts.

§ 431.25 *Coordination before contract award.* For effective application of the principles stated in § 431.24, each purchasing office should be staffed with and use the services of persons qualified and competent to evaluate credit and financial problems, or each Contracting Officer should have available within his procuring activity, and should use the services of persons so qualified and competent to evaluate credit and financial problems. Among other things, the duties of such persons would be to arrange, prior to contract awards, and so far as practicable, prior to subcontract arrangements, that financing for performance of contemplated contracts and subcontracts is reasonably assured prior to or contemporaneously with the making of contracts. In those exceptional cases where there is substantial doubt that a prospective contractor has the financial capacity or credit resources essential to the performance of the contemplated contract, the interested procuring activity, after having determined that no satisfactory alternative sources of supply are readily available on terms equally as favorable to the Government,

[2] 16 F. R. 1049; 3 CFR, 1951 Supp.

should, prior to placement of the contract, consult with the appropriate contract financing office of the interested Department, to determine whether financing can prudently be arranged. These contract financing offices are the Chief of Finance or the Army Comptroller, in the Department of the Army, the Assistant Comptroller, Accounting, Audit and Finance, in the Department of the Navy, and the Deputy for Contract Financing to the Assistant Secretary (Management), of the Air Force. In such consultation it should be resolved, if placement of the contract is deemed beneficial to the interests of the Government, whether and by what means financing should be provided.

§ 431.26 *Relation of loan guarantees or advance payments to new procurement.* Subject to §§ 431.24 and 431.25, in all cases, whether involving formal advertising or negotiation, if there will be a benefit to the Government from dealing with a particular contractor, deemed competent and capable of performance of the contract, as, for example, a material saving in price as compared with prices of other contractors, or better quality or delivery prospects, or furtherance of other established procurement policies including those reflected in the factors set forth in § 402.101 of this chapter, the need for or existence of a guaranteed loan (with reasonable percentage of guarantee) or the need for or existence of an advance payment or progress payments, should not deter the making of the contract.

§ 431.27 *Report of adverse developments.* When materially adverse developments concerning a borrower having a guaranteed loan, or concerning a contractor having advance payments or progress payments, become known to a procuring activity, pertinent facts should be reported by the procuring activity to the contract financing office of the Department principally concerned with the contract financing, so that timely appropriate protective or remedial action may be taken by coordinated action of all concerned.

SUBPART C—GUARANTEED LOANS

§ 431.30 *Scope of subpart.* This subpart covers the policies, organization, and procedure particularly applicable to guaranteed loans. It reflects the development of the guaranteed loan program by indicating uniform practices that are being applied pursuant to the above-mentioned memorandum of 14 October 1950 (Appendix 1).

§ 431.31 *Federal Reserve Banks.* Under section 302 (b) of Executive Order No. 10161, pursuant to section 301 (b) of the Defense Production Act of 1950, each Federal Reserve Bank is designated and authorized to act, on behalf of each guaranteeing agency, as fiscal agent of the United States in the making of contracts of guarantee and in otherwise carrying out the purposes of section 301 of the Defense Production Act of 1950, in respect of private financing institutions. Pursuant to Regulation V of the Board of Governors of the Federal Reserve System (32A CFR Ch. XV; 16 F. R. 1586), any private financing institution may submit to the Federal Reserve Bank of its district an application for guarantee of a loan or credit. This application is in substantially standard form, as approved by the Board of Governors of the Federal Reserve System, after consultation with the guaranteeing agencies. Forms of application, and information and guidance concerning applications, are available at all Federal Reserve Banks.

§ 431.32 *Board of Governors of the Federal Reserve System.* Under section 302 (c) of Executive Order No. 10161, all actions and operations of Federal Reserve Banks, as fiscal agents, are subject to the supervision of the Board of Governors of the Federal Reserve System (hereinafter referred to as "Federal Reserve Board"). The Federal Reserve Board is authorized, after consultation with the heads of the guaranteeing agencies, (a) to prescribe such regulations governing the actions and operations of fiscal agents as it may deem necessary, (b) to prescribe, either specifically or by maximum limits or otherwise, rates of interest, guarantee and committment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through such fiscal agents, and (c) to prescribe regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

§ 431.33 *Procedure on application of a private financing institution.* A defense contractor or subcontractor (at any level) or supplier, who requires operating funds may apply to the private financing institution selected by him, for the necessary loan or revolving credit, and furnish necessary information to the financing institution. If the financing institution is willing to extend credit, but considers Government guarantee necessary, it may file application for guarantee with the Federal Reserve Bank of its district. The Federal Reserve Bank promptly submits copy of the application to the Federal Reserve Board listing dedense contracts, for transmittal to the interested guaranteeing agency, so that determination may be made as to eligibility of the prospective borrower. For the purpose of expediting the Federal Reserve Bank may also, pursuant to general instructions of the guaranteeing agencies, submit schedules of defense contracts to the interested Contracting Officers, who are expected at once to take appropriate steps for determination of eligibility, and to submit their findings and report, including Certificate of Eligibility where appropriate, to the designated central procurement office, or contract financing office as the case may be, within the guaranteeing agency. Concurrently with the process for determination of eligibility, the Federal Reserve Bank makes any necessary credit investigation, to the extent and in the manner that it considers investigation or verification appropriate to supplement information furnished by the applicant financing institution, all with a view to expediting necessary defense financing in such a way as to afford the best reasonable protection against monetary loss. The report and recommendation of the Federal Reserve Bank are sent to the Federal Reserve Board, which transmits them to the interested guaranteeing agency, in Washington. If the application is approved, on such terms and conditions as may be deemed appropriate by the responsible officer or official within the guaranteeing agency, the guaranteeing agency then authorizes the Federal Reserve Bank, by standard form of authorization transmitted through the Federal Reserve Board, to execute and deliver to the financing institution a standard form of guarantee agreement (Appendix 4), with the terms and conditions approved for the particular case. The Federal Reserve Bank, as fiscal agent for the guaranteeing agency, then issues the guarantee to the financing institution, which makes the loan. Substantially the same procedure may be followed on application for guarantee of loans to be made to a potential defense contractor who is actively negotiating or bidding for defense business, except that the guarantee is not authorized until the prospective defense contract has been executed.

§ 431.34 *Loan guarantees to Federal Reserve Banks.* The Defense Production Act and Executive Order No. 10161 also authorize guarantees for loans made or participated in by Federal Reserve Banks. The procedure outlined in § 431.33 applies also to loan guarantees where a Federal Reserve Bank is making or participating in the loan, except that in such cases the interested Federal Reserve Bank, as a financing institution, does not act as fiscal agent, and when approved, the guarantee agreement is executed by an official of the guaranteeing agency.

§ 431.35 *Loan guarantees to public financing institutions.* Section 301 of the Defense Production Act of 1950, and section 302 of Executive Order No. 10161 also authorize guarantees of loans made by public financing institutions. One of these is Reconstruction Finance Corporation. For such cases, the Federal Reserve Banks are not designated as fiscal agents under Executive Order No. 10161, and dealings are direct between Reconstruction Finance Corporation, in Washington, and the guaranteeing agency having preponderant interest in the case. The percentage of guarantee for such loans does not exceed 90 percent.

§ 431.36 *Guaranteeing agency.* The guaranteeing agencies which have been designated under section 301 of the Defense Production Act of 1950 are the Departments of the Army, Navy, Air Force, Agriculture, Commerce and Interior, General Services Administration, Atomic Energy Commission, and Defense Materials Procurement Agency. All of the guaranteeing agencies have concurred in the following policy:

Where a prospective borrower under a V-loan has defense contracts or subcontracts in which more than one of the guaranteeing agencies are interested, the guaranteeing agency in such case will in general be that agency which, as of the time of the application for the guarantee, has the preponder-

ance of interest in such contracts and subcontracts on the basis of the dollar amount of the prospective borrower's unfilled and unpaid balances of such contracts and subcontracts and estimated claims under terminated contracts (exclusive of contracts with advance payments, if such advance payments are not to be liquidated by the proposed guaranteed loan). If the application is approved and a guarantee agreement is executed on behalf of such agency having the preponderance of interest, that agency will bear all losses and expenses and receive all revenues under such guarantee without allocation to other agencies of the Government.

In this connection, among the Military Departments, single service procurement contracts are deemed those of the purchasing department.

§ 431.37 *100 percent guarantees.* It is the policy of the guaranteeing agencies that 100 percent guarantees shall be limited to the greatest extent compatible with the requirements of the national defense. Applications for 100 percent guarantees will be approved only in cases in which the guaranteeing agency determines that the circumstances are exceptional, that the operations of the borrower are vital to the national defense, and that no other suitable means of financing are available.

§ 431.38 *Asset formula.* It is the policy of the guaranteeing agencies that borrowings under guaranteed loans made primarily for working capital purposes should be limited, in accordance with an asset formula, to amounts which do not exceed specified percentages (90 percent or less) of the borrower's investment in defense production contracts. The formula may include all items for which the borrower would be entitled to payment on performance or termination of defense contracts, but would not include any amounts (for which no work has been done nor expenditures made by the borrower) to become due as the result of later performance under the borrower's contracts. However, any such asset formula would be subject to relaxation in appropriate cases to the extent and for the time actually necessary for contract performance where the contractor's working capital and credit are inadequate. This "asset formula" does not include "cash collateral" or bank deposit balances.

§ 431.39 *Amount and maturity of guaranteed loans.* (a) Subject to the limitations of the asset formula (§431.38), the maximum amount of guaranteed credit in individual cases, and the maturity date of guaranteed loans or credits, are fixed to conform reasonably to the borrower's financing requirements for defense production contracts on hand at the time of application for guarantee. If additional defense production contracts are entered into after the application and before authorization of a guarantee, to such extent as to require increase in the maximum amount, or longer maturity for the requested guaranteed loan, adjustments may be made to provide for the borrower's additional financing requirements. Also, guarantee agreements for existing guaranteed loans may be amended, on submission of pertinent information and Federal Reserve Bank report to the guaranteeing agency concerned, to provide financing for defense production contracts entered into by the borrower during the term of the guaranteed loan.

(b) Also, within the limits of the applicable loan formula and ceiling amount, there is generally no objection to inclusion in the borrowing base, of assets under defense production contracts entered into after the date of the guarantee agreement. However, in exceptionally weak cases, and in the cases of guaranteed loans established for financing only one or a small number of contracts, it is the practice to require that financing of relatively substantial additional defense contracts under existing guaranteed loans be done only with the consent of the guarantor.

§ 431.40 *Assignments of claims under contracts.* Assignments of claims under the borrower's defense production contracts are generally required, including assignment of proceeds of such contracts entered into after issuance of the guarantee if after acquired contracts are eligible for financing under the guaranteed loan in a given case. However, assignments need not be required in particular cases, (1) where the borrower's financial condition is so strong as to cause assignments of any contracts to be considered not necessary for the protection of the loan, or, (2) where incident to assignment of major contracts it is considered not necessary for the protection of the loan to require initial assignment of relatively small contracts, or, (3) where the large number of contracts of the borrower for small dollar amounts, would cause the making and administration of contract assignments to be unduly burdensome and inconvenient so long as not deemed essential for the protection of the loan.

(a) It is required, as standard practice, that defense production contracts, not theretofore assigned, will be assigned whenever requested by the guarantor or the financing institution.

(b) Subcontracts and purchase orders issued to subcontractors are not considered acceptable for financing under guaranteed loans, at the time assignments of proceeds are required, if and so long as the issuer of the subcontracts or purchase orders (1) reserves the privilege of making payments directly to the assignor after notice of the assignment, or (2) reserves the right to reduce or set off assigned proceeds under defense production contracts by reason of claims against the borrower arising after notice of assignment and independently of defense production contracts.

§ 431.41 *Other collateral security.* Ordinarily, mortgages on fixed assets are not required, but they are required where considered essential to protect the Government. Liens or other security arrangements pertaining to inventories are also seldom required, except when desired by financing institutions or in exceptional circumstances when deemed necessary to protect the Government. Depending upon the circumstances of individual cases, endorsements, guarantees, subordinations, and stand-bys of other indebtedness, and other special security devices are required when deemed necessary for the protection of the Government.

§ 431.42 *Contract surety bonds in relation to loan guarantees.* In most jurisdictions, upon default by a contractor and performance of the surety's obligations, the surety's right of subrogation gives to the surety, ahead of a financing institution which had made a loan for contract performance, prior claim to payments made on the bonded contract after default, and in performance of its obligations the surety also has the benefit of materials on hand that have been paid for by the contractor, even though progress on the contract before default has been financed by loans from the financing institution.

(a) Because of the foregoing, on loan guarantees in connection with prime contracts, the guarantor's loss on the loan, payable to the financing institution, may serve to take away from the Government the benefit of performance of the surety's obligations on its bond; and in subcontract cases the loan may serve to benefit the surety at the expense of the financing institution and guarantor.

(b) Except to the extent that surety bonds are required by law, bonds are generally not required. Yet it may sometimes be necessary to rely upon a contractor whose capacity to perform is so doubtful that a bond is required for the protection of the Government. The guarantee of a loan to a contractor of such doubtful capacity to perform necessarily involves unusual risks of monetary loss. Contract surety bonds, and guaranteed loans for financing bonded contracts are regarded as fundamentally incompatible unless the interests of the surety are subordinated in favor of the guaranteed loan.

(c) In order to maintain the advantages of performance bonds existing in favor of the Government on prime contracts, in cases where the Government contract or contracts covered by surety bonds are substantial in relation to the contractor's total backlog of defense production contracts or where the amount of the bond is substantial in relation to the contractor's net worth, applications for loan guarantees are approved only if the surety or sureties on the bonds involved will subordinate their rights and claims in favor of the guaranteed loan.

(d) In cases involving relatively substantial subcontracts covered by surety bonds, approval of an application for loan guarantee will also be contingent upon the establishment of a reasonable allocation agreement between the surety or sureties and the financing institution, which would have the effect of giving the financing institution the benefit, with regard to payments to be made on the contract, of that portion of its loans fairly attributable to expenditures made under the bonded subcontracts prior to notice of default.

§ 431.43 *Other borrowings.* Since V-loans are generally measured, and limited by, stated percentages of the borrower's investment in defense pro-

duction operations and terminated defense contracts, it is evident that borrowings outside the guarantee may be necessary in some cases to support the borrower's non-defense activities. It has been recognized in practice, that while prohibition of borrowings outside the guaranteed loan is preferable where practicable in a given V-loan case, such other borrowings should be permitted, when necessary.

(a) However, in cases where borrowings outside the V-loan are not prohibited, some restrictions on unguaranteed borrowings appear necessary for protection of the Government interest. These include reasonable limitations on the amount of, and collateral security for, such unguaranteed borrowings, and usually a provision that collateral security, if any, for such unguaranteed loans made by the same financing institutions should also be secondary collateral for the V-loan.

(b) If a credit is to be guaranteed under section 301 of the Defense Production Act, in circumstances where there may be borrowings either under or outside the guarantee, the guaranteed credit, having been established, and being susceptible to use at any time, should be utilized first and fully, and not reserved as free insurance pending such time and circumstances as may make its use convenient to the financing institution. It has therefore been determined, in line with the practice developed toward the end of the past war, that for those cases in which borrowings outside the V-loan are not prohibited, it should be required uniformly that other borrowings outside the V-loan may be incurred and remain outstanding without the consent of the financing institution and the guarantor only when the V-loan is being used to the full extent permitted by the V-loan agreement. Appropriate certificates of the borrower, in the same form as those used to measure the amount that may be outstanding under the V-loan, but submitted at intervals not longer than 30 days, could be used to determine when there may be borrowings outstanding outside the V-loan.

(c) It is of course recognized that appropriate exceptions will have to be made in individual cases to permit the continuation of outstanding term loans, to permit future unguaranteed term loans for expansion of facilities, and to permit continuance of such financing as may be necessary to supplement a V-loan.

§ 431.44 *Certificate of eligibility.* The Certificates of Eligibility, and supporting data, furnished by principally interested procuring activities, are the basis for the ultimate findings, incident to authorization or approval of loan guarantees, that the case meets the requirements of section 301 of the Defense Production Act of 1950 and of section 302 of Executive Order No. 10161.

(a) In its present form this certificate includes findings that the materials or services involved are deemed essential to the national defense, that these cannot be procured readily from an alternative source without prejudice to the national defense, and that the contractor has the technical ability and the required facilities to perform. It is required that supporting data be contained in or accompany the certificate. It has been provided on the approved form of certificate, as the standard for guidance in considering issuance of Certificates of Eligibility, that—

This is not intended as a statement that there is absolutely no alternative source other than this contractor. The certification is founded on practical considerations. These considerations include the urgency of supply schedules, technical and plant capacity and unwillingness of other suppliers, time and expense involved in reletting all or parts of contracts (including expense of terminations for convenience, and delays incident to future determinations of default), comparative prices, effect of interruptions of established subcontracting arrangements, and other pertinent practical factors.

§ 431.45 *Procedure for certificate of eligibility.* It is important that the processing of Certificates of Eligibility be accomplished expeditiously. It is necessary that there be application of uniform and consistent standards in determining eligibility.

(a) As indicated in § 431.44 (a), the determination in the Certificate of Eligibility is based upon giving full weight to practical considerations. It is also intended that in determining whether the materials or services can be procured readily from an alternative source without prejudice to the national defense, due consideration will be given to the effect of the use of alternate sources on the established major policies affecting procurement, such as those relating to broadening the industrial base, and industrial dispersal. If the reletting of contracts with other sources would involve conflict with any of such policies, such reletting in conflict with any such policy should be deemed prejudicial to the national defense. Also, in considering the practicability of alternative sources, in addition to the considerations outlined above, regard should be given to the question whether such potential alternate sources would require Government financing by progress payments, or advance payments, or Government supported financing by means of a guaranteed loan. If such financing would be required for alternative sources, such alternate sources may be fairly considered not "readily available" within the meaning of the Certificate of Eligibility.

(b) Ordinarily, if Certificate of Eligibility is not issued by the interested procuring activity, it does not follow that the contract involved will be terminated unless the contractor is in default to the extent that termination for default is considered desirable, or unless it has been determined that the contractor will be unable to perform his contract. Thus, in determining whether alternate sources are readily available without prejudice to the national defense, consideration should be given to the effect on supply schedules, and costs to the Government, if the contractor should default at a later date and be unable to perform by reason of inadequate financing.

(c) If it is concluded that performance by the contractor or subcontractor is not essential and that failure of performance would not be prejudicial to the national defense (after taking into account the foregoing considerations, and giving due consideration to the desirability of maintaining the contractor in operation for future utilization incident to possible full mobilization), there would of course be no occasion for issuance of the Certificate of Eligibility.

(d) In determining whether the certificate should be issued, emphasis should be placed on the factors of the contractor's technical ability, management competence, and plant capacity and facilities, and generally on his ability to perform satisfactorily if adequate financing is provided.

(e) With regard to contracts existing at the time of request for Certificate of Eligibility, the percentage of guarantee requested by a financing institution is not a factor to be considered in connection with issuance of the Certificate.

(f) The stated general preference for progress (or partial) payments, in order of preference ahead of guaranteed loans (Appendix 1), was intended primarily for the purpose of permitting contractors desiring progress (or partial) payments to arrange for them in appropriate cases. Such general preference for progress (or partial) payments in appropriate cases, when requested by the contractor, does not require any emphasis on or attempt to establish progress (or partial) payments in connection with applications for loan guarantees or at any other time. When requests are made for Certificates of Eligibility incident to applications for loan guarantees, procuring activities should not undertake to encourage new progress (or partial) payments, or to inquire concerning further utilization of progress (or partial) payments. However, in those cases of subcontracts, where the prospective borrower is financially weak in relation to the financial condition of his defense contract customer, and the interests of the Government would be fostered by the making of progress payments to the subcontractor by his customer, it is appropriate that steps be taken, by coordinated effort of the procuring activity and the contract financing office, to arrange to the extent practicable for such progress payments to the subcontractor by his customer. By such means, in appropriate cases, the guaranteed loan may become unnecessary, or necessary in lesser amount, and the risks of loss are borne wholly or partly by the prime contractor or subcontractor responsible for selection of the prospective borrower as his subcontractor.

(g) In all cases, the supporting data furnished to the contract financing office should be sufficient to support the findings made in the Certificate of Eligibility. When Certificate of Eligibility is not furnished, the facts and reasons leading to declination of the certificate should be furnished.

(h) If materially adverse information of any character concerning the prospective borrower is known to a procuring activity, such materially adverse information should be fully reported to the interested contract financing office. However, procuring activities are not expected to make any special investigation of the prospective borrower's finan-

cial condition in connection with applications for loan guarantees, as reports concerning financial condition of prospective borrowers are made by the Federal Reserve Banks.

(i) When Certificates of Eligibility are requested within a Department, or by one Department from another Department, reply will be made as promptly as possible, on a priority basis, as delays in financing may retard contract performance. Ordinarily, requests for Certificates of Eligibility, and pertinent data, will be made only with respect to those contracts deemed of material consequence under the circumstances of particular cases.

(j) In cases involving several contracts, or subcontracts, including contracts or subcontracts relatively minor in relation to dollar amounts of other contracts involved, the processing of Certificates of Eligibility should not be delayed pending determinations concerning the relatively minor contracts. When any office within a procuring activity has on hand information concerning the substantial preponderance of amount of contracts with which it is concerned, its action concerning the Certificate of Eligibility should be completed without awaiting information on which to make determinations or recommendations concerning minor contracts. Basically, in situations involving numerous contracts, the determination as to eligibility should be founded upon the need of the prospective borrower's operation in the defense production program, and if his operation is considered necessary for performance of a substantial preponderance of his contracts, it should usually be unnecessary to make determinations concerning the eligibility of any particular minor contracts.

(k) When a Contracting Officer or other person within a procuring activity responsible for processing requests for Certificates of Eligibility has reason to believe that an application for loan guarantee has been filed or is about to be filed, relating to a contract or subcontract within his cognizance, he should, without awaiting request for Certificate of Eligibility or request for information bearing on issuance of a Certificate of Eligibility, initiate the completion and transmittal of such information and certificate to the appropriate office within his Department, for forwarding to the contract financing office within the Department.

SUBPART D—ADVANCE PAYMENTS

§ 431.50 *Scope of subpart.* This subpart covers policy and procedure for advance payments under prime contracts. It is to be applied in conformity to the basic policies stated in Appendices 1 and 2. In addition to this subpart, other portions of the regulations in this part are applicable to advance payments, specifically, §§ 431.1 to 431.3, 431.10, 431.13, 431.14, and all of Subpart B.

§ 431.51 *Negotiated contracts.* Pursuant to the authority of section 5 of the Armed Services Procurement Act of 1947, advance payments under negotiated contracts may be made, with the approval of the Assistant Secretary concerned, in any amount not exceeding the contract price and upon such terms as the parties shall agree: *Provided*—

(a) Adequate security for such advance payments is obtained;

(b) Provision for advance payments is in the public interest or in the interest of the national defense, as determined by the Assistant Secretary concerned; and

(c) Provision for advance payments is necessary and appropriate in order to procure the required supplies or services, as determined by the Assistant Secretary concerned.

§ 431.52 *Security provisions.* The advance payment agreement under the Armed Services Procurement Act of 1947 (as well as under the First War Powers Act, 1941, as amended, as provided in Appendix 2) should provide for deposit of all payments into special bank accounts and should include suitable covenants to protect the Government's interest. Advance payments under such authorizations should be limited to the contractor's financial needs, and withdrawals from the special bank accounts provided therefor should be closely supervised. The terms governing advance payments should include as security, in addition to or in lieu of the requirements for an advance payment bond or other security, provision for a lien in favor of the Government, paramount to all other liens, upon the supplies contracted for, upon the credit balance in any special account in which such payments may be deposited, and upon such of the material and other property acquired for performance of the contract, as the parties shall agree.

§ 431.53 *General limitation on authority.* In all cases, whether under the Armed Services Procurement Act of 1947 or under the First War Powers Act, 1941, as amended, advance payments shall not be authorized unless no other contractor is readily available, without prejudice to the national defense, to furnish the desired supplies or services, upon terms satisfactory to the Department, without provision for advance payments.

§ 431.54 *Uses of advance payments.* As stated in Appendix 1, and explained in § 431.45 (f), the general order of preference is (a) private financing (without Governmental guarantee), (b) progress (or partial) payments, (c) guaranteed loans with reasonable percentage of guarantee, and (d) advance payments. This preference for guaranteed loans ahead of advance payments also extends to guarantees up to 90 percent for loans by public financing institutions in those cases in which such guarantee may afford more expeditious and convenient financing under the circumstances of particular cases. However, as provided in Appendix 2, it is not necessary to give consideration to availability of other means of financing, or to use of the contractor's own working capital to the extent possible, in connection with (1) nonprofit contracts with nonprofit educational or research institutions for experimental, research, and development work, or, (2) contracts solely for the management and operation of Government-owned plants. Subject to the provisions of the regulations in this part, advance payments are considered useful and appropriate for, (i), contracts for acquisition of facilities at cost, for Government ownership, (ii), contracts involving operations so remote from a financing institution that the financing institution could not be expected to provide suitable administration of a guaranteed loan, (iii), contracts of such highly classified nature that the Department considers it undesirable for national security to permit assignment of claims under the contract, (iv), rare but essential contracts of those contractors, unusually weak or overextended financially, in those cases in which performance may be better fostered and risks of financial loss most effectively minimized by very close control of funds and supervision of performance by personnel of the Department concerned, (v), contracts for the financing of which a financing institution will not assume a reasonable portion of the risks under a guaranteed loan, and (vi), exceptional cases in which the utilization of advance payments will be more beneficial to the interests of the Government than any other available method of financing.

§ 431.55 *Types of contracts that may have advance payments.* Advance payments may be made on any approved type of contract, as defined in § 400.201–6 of this chapter.

§ 431.56 *Application for advance payment.* The contractor's application for advance payment, whether incident to the making of a contract or by way of amendment or supplemental agreement for advance payments under an existing contract, may be in the form of a letter request or other writing. The application should refer to the contract under which advance payments are requested, and should include or be accompanied by the following:

(a) Balance sheet and profit and loss statement for the most recent fiscal year prepared and certified by an independent public accountant (including his comments, if any), and, if available, similar financial data for the two previous years; also latest available interim balance sheet and profit and loss statement of the current fiscal year. If audit reports are not available, then corresponding statements should be submitted, certified by an authorized officer, partner, or individual proprietor as truly and fully setting forth the financial condition and operating results of the applicant; also, if a proprietorship or partnership, personal financial statement of proprietor or partners;

(b) Appropriate explanation and schedules to indicate (1), aging and collectibility of accounts and notes receivable, (2), obsolescence of inventory and method of valuing inventory, (3), adequacy of reserves for depreciation, (4), aging of accounts and notes payable, including schedule of major creditors and interest rates and other charges, if any, (5), mortgages, liens, pledges, assignments, conditional sales, hypothecations and other encumbrances or security arrangements, if any, (6), analysis of surplus, (7), contingent liabilities (and liabilities not shown in the financial statements), if any, including those on

endorsements, guarantees, warranties, surety bonds, tax assessments or deficiencies, renegotiation, and material litigation pending or threatened, (8), existing credit or financing arrangements, and (9), such other facts as may be appropriate for adequate disclosure and understanding of the contractor's financial condition;

(c) Schedule of insurance maintained and to be maintained, especially as to inventories;

(d) Schedule of principal contracts and orders on hand, showing defense orders and civilian orders separately, and also indicating bids outstanding and contemplated, and explanation concerning contracts under negotiation, in addition to the contract under which advance payments are requested;

(e) Cash forecast, showing estimated disbursements and receipts for the period in which the requested advance payment is expected to be outstanding;

(f) Schedule of leases, deferred purchase arrangements, and patent or royalty arrangements, outlining terms, and indicating relationship, if any, of lessors or vendors to the applicant;

(g) Statement of compensation payable to each officer, partner, proprietor, and principal executive, and to each key employee receiving comparable compensation, including bonus, commission, and profit-sharing arrangements, together with similar data for the past two years;

(h) Statement of all affiliates of the contractor, showing financial interests of the contractor in affiliates and of affiliates in the contractor, and also mutual officers, directors, and major stockholders or owners, and disclosing character and amount of business transactions with affiliates; also, if a corporation, list of major stockholders, and shares held;

(i) Summary history of contractor and its principal management personnel, indicating particularly any past insolvencies of the applicant or a predecessor or of the officers, partners, or proprietors;

(j) Proposed amount of advance payments, and maximum percentage of contract price to be advanced;

(k) Name and address of bank suggested as depository for the advance payment special account; and

(l) Except for contracts mentioned in clauses (1) and (2) of § 431.54, description of efforts made to obtain private financing, including guaranteed loan.

§ 431.57 *Action by Contracting Officer.* After such investigation as may be appropriate, and analysis of the request and information submitted by the contractor, the Contracting Officer should transmit to the appropriate office within his Department, in original and such number of copies as may be required within the Department—

(a) The request and information furnished by the contractor;

(b) Report of investigation, including past dealings with the contractor, and comment on the character and responsibility of the contractor, technical ability, and plant capacity;

(c) Date and identifying symbol of the approval of the award, citation of the appropriation available, type of contract, dollar amount of cotnract, the items to be supplied, and schedule of deliveries or performance, and copy of contract, if available;

(d) Proposed advance payment contract provisions or supplemental agreement, including proposed security provisions:

(e) Certificate that (1), the required materials or services are essential to the national defense, and (2), cannot be procured readily from an alternative source without prejudice to the national defense, upon terms satisfactory to the Department, without provision for advance payments;

(f) The determination and findings mentioned in § 431.51 (b) and (c).

(g) Recommendation that the advance payment be approved;

(h) Justification of proposal, if any, for waiver of interest charge; and

(i) If the Contracting Officer determines that the requested advance payment should be disapproved, the contractor's request, information submitted, report of investigation (if any), and statement of reasons for adverse determination should be sent forward to the Chief of Finance, in the Department of the Army, to the Assistant Comptroller, Accounting, Audit and Finance, in the Department of the Navy, and to the Deputy for Contract Financing to the Assistant Secretary (Management) of the Air Force. This information may be useful in connection with existing or prospective arrangements for other financing.

§ 431.58 *Security and covenants.* Because of the variations in circumstances of individual cases, no fixed rule can be prescribed for determining adequacy of security in a particular case. The minimum security will be that required by the provisions of approved contract forms, supplemented by such further provisions and arrangements, if any, as may be considered appropriate for the protection of the Government under the circumstances of each case. Advance payment bonds usually will not be required. When and to the extent deemed necessary and appropriate, special security provisions will be required, such as, for example, personal or corporate endorsements or guarantees, pledges of collateral, subordination or stand-by of other indebetedness, and controls or limitations on profit distributions salaries, bonuses or commissions, rentals and royalties, capital expenditures, creation of liens, debt retirement or stock retirement, and creation of additional obligations.

§ 431.59 *Advance payments in addition to progress payments.* Where necessary and in accordance with the regulations in this part, advance payments may be authorized in addition to progress payments on the same contract.

§ 431.60 *Forms of contract provisions and supplemental agreements.* The approved forms for agreement covering advance payment special bank accounts, and the approved forms of advance payment contract provisions and supplemental agreements for use in connection with the several types of approved contracts are set out below. Variations from the approved forms of contract provisions for advance payments should be made only when necessary in exceptional circumstances, with the approval of the person having authority to approve the particular advance payment contract involved.

(a) *Forms of agreement for special bank account.* For all advance payments substantially the following form of agreement will be used for the special bank account or accounts:

AGREEMENT FOR SPECIAL BANK ACCOUNT

Agreement entered into this _____ day of _____, 195__, between the United States of America, hereinafter called the Government, represented by the Contracting Officer, executing this Agreement, _____, a corporation under the laws of the State of _____, hereinafter called the Contractor, and _____, a banking corporation under the laws of _____, located at _____, hereinafter called the Bank.

RECITALS

(a) Under date of _____, 195__, the Government and the Contractor entered into Contract(s) No. _____, or a Supplemental Agreement thereto, providing for the making of advance payments to the Contractor. Copy of such advance payment provisions has been furnished to the Bank.

(b) Said Contract or Supplemental Agreement requires that amounts advanced to the Contractor thereunder be deposited in a Special Bank Account or accounts at a member bank or banks of the Federal Reserve System or any "insured" bank within the meaning of the Act creating the Federal Deposit Insurance Corporation (Act of August 23, 1935; 49 Stat. 684,, as amended; 12 U. S. C. 264), separate from the Contractor's general or other funds; and, the Bank being such a bank, the parties are agreeable to so depositing said amounts with the Bank.

(c) This Special Bank Account shall be designated

"_____
(Name of contractor)
_____ Special Bank Account."
(Department)

COVENANTS

In consideration of the foregoing, and for other good and valuable considerations, it is agreed that:

(1) The Government shall have a lien upon the credit balance in said account to secure the repayment of all advance payments made to the Contractor, which lien shall be superior to any lien or claim of the Bank with respect to such account.

(2) The Bank will be bound by the provisions of said contract or contracts relating to the deposit and withdrawal of funds in the above Special Bank Account, but shall not be responsible for the application of funds withdrawn from said account. After receipt by the Bank of written directions from the Contracting Officer, or from the Administering Office designated in the advance payment contract mentioned above, or from the duly authorized representative of the Contracting Officer or the Administering Office, the Bank shall act thereon and shall be under no liability to any party hereto for any action taken in accordance with the said written directions. Any written directions received by the Bank through the Contracting Officer upon Department of the _____ stationery and purporting to be signed by, or by the direction of _____ or his duly authorized representative, shall, in so far as the rights, duties and liabilities of the Bank are concerned, be conclusively deemed to have been properly issued and filed with the Bank by the Department of the _____

(3) The Government, or its authorized representatives, shall have access to the books and records maintained by the Bank with respect to such Special Bank Account at all reasonable times and for all reasonable purposes, including (but without limiting the generality thereof) the inspection or copying of such books and records and any and all memoranda, checks, correspondence or documents appertaining thereto. Such books and records shall be preserved by the Bank for a period of six (6) years after the closing of this Special Bank Account.

(4) In the event of the service of any writ of attachment, levy of execution, or commencement of garnishing proceedings with respect to the Special Bank Account, the Bank will promptly notify _____

_____

(Administering office)

In witness whereof the parties hereto have caused this Agreement to be executed as of the day and year first above written.

_____

(Signatures and official titles)

(b) *Advance payment provisions.* Approved contract provisions for advance payments, with directions for use where appropriate, follow:

(1) *Amount of advance.* At the request of the Contractor, and subject to the conditions hereinafter set forth, the Government shall make an advance payment, or advance payments from time to time, to the Contractor. No advance payment shall be made (i) without the approval of the office administering advance payments (hereinafter called the "Administering Office" and designated in paragraph (14) (d) below) as to the financial necessity therefor; (ii) in an amount which together with all advance payments theretofore made, shall exceed the amount stated in paragraph (14) (a) below; (iii) without a properly certified invoice or invoices.

(2) *Special Bank Account.* Until all advance payments made hereunder, and interest charges, are liquidated and the Administering Office approves in writing the release of any funds due and payable to the Contractor, all advance payments and all other payments under the contract shall be made by check payable to the Contractor and be marked for deposit only in a Special Bank Account with the bank designated in paragraph (14) (b) below. No part of the funds in the Special Bank Account shall be mingled with other funds of the Contractor prior to withdrawal thereof from the Special Bank Account as hereinafter provided. Except as hereinafter provided, each withdrawal shall be made only by check of the Contractor countersigned on behalf of the Government by the Contracting Officer, or such other person or persons as he may designate in writing (hereinafter called the "Countersigning Agent").

(3) *Use of funds.* The funds of the Special Bank Account shall be withdrawn by the Contractor solely for the purposes specified in paragraph (14) (e) below, and for such other purposes as the Administering Office may approve in writing. Any interpretation required as to the proper use of funds shall be made in writing by the Administering Office.

(4) *Return of funds.* The Contractor may at any time repay all or any part of the funds advanced hereunder and shall at any time, if so requested in writing by the Administering Office, repay to the Government such part of the unliquidated balance of advance payments as shall in the opinion of the Administering Office be in excess of current requirements or in excess of the percentage of the contract price, or estimated cost as the case may be, specified in paragraph (14) (a). In the event the Contractor fails to repay such part of the unliquidated balance of advance payments when so requested by the Administering Office, all or any part thereof may be withdrawn from the Special Bank Account by checks payable to the Treasurer of the United States signed solely by the Countersigning Agent and applied in reduction of advance payments then outstanding hereunder.

(5) *Interest charge.* If required in paragraph (14) (c) below and at the rate therein specified, the Contractor shall pay interest to the Government upon the daily unliquidated balance of advance payments made under this contract. If the full amount of such interest is not paid by deduction or otherwise upon the completion or termination of this contract, the deficiency shall be paid by the Contractor to the Government upon demand. Interest at the rate specified in paragraph (14) (c) shall be computed at the end of each calendar month on the average daily balance of the principal of the advance payments outstanding. In determining such balance, (1) charges on account of the advance payments to the Contractor shall be made as of the date of the checks therefor, and (2), credits arising from deductions from payments to the Contractor shall be made as of the date of issue of the checks for such payments. [For cost reimbursement contracts, use, instead of (2) above: (2) credits resulting from deductions from cost reimbursements shall be made upon the approval of the vouchers by the Disbursing Officer, as of the dates respectively upon which the Contractor presents to the Contracting Officer or his duly authorized representative full and accurate data for the preparation of each such voucher, which date shall as to each such voucher be certified by the Contracting Officer or his duly authorized representative.] Also, in determining such balance, credits arising from cash repayments to the Government by the Contratcor shall be made as of the date the checks therefor are received by the Disbursing Officer. As soon as such monthly computations shall have been made, the interest charge so determined shall be deducted from any payments otherwise due to the Contractor under the contracts on which advance payments have been made. [For cost-plus-fixed-fee contracts, use the following, instead of the next preceding sentence: As soon as such monthly computations shall have been made, the interest charge so determined shall be deducted from any payments on account of the fixed fee which may be made to the Contratcor from time to time under this Contract.] In the event the accrued interest exceeds any such payment, the excess of such interest shall be carried forward and deducted from subsequent payments on account of the contract price or fixed fee as the case may be. The interest shall not be compounded, and shall, subject to the provisions of paragraph (11) hereof, cease to accrue with respect to each contract upon which advance payments are outstanding hereunder, upon termination of such contract for other than the fault of the Contractor, or upon the date found by the Contracting Officer to be the date upon which the Contractor completed his performance under the contract.

(6) *Liquidation.* The advance payments made hereunder and interest charges shall be liquidated in the manner set forth in paragraph (14) (f) below and as hereinafter provided. If upon the completion of the contract or the termination thereof, the advance payments made to the Contractor hereunder and the interest charges have not been fully liquidated, the balances thereof shall be deducted from any payments otherwise due or which may become due to the Contractor from the Government, and, if the sum or sums due or which may become due to the Contractor from the Government are insufficient to cover such balances, the deficiency shall be paid by the Contractor to the Government upon demand.

(7) *Bank Agreement.* Before an advance payment is made hereunder, the Contractor shall transmit to the Administering Office, in the form prescribed by such office, an Agreement in duplicate from the bank in which the Special Bank Account is established, clearly setting forth the special character of the account and the responsibilities of the bank thereunder. Wherever possible, such bank shall be a member bank of the Federal Reserve System, or an "insured" bank within the meaning of the Act creating the Federal Deposit Insurance Corporation (Act of August 23, 1935, 49 Stat. 684, as amended; 12 U. S. C. 264).

(8) *Lien on Special Bank Account.* The Government shall have a lien upon any balance in the Special Bank Account paramount to all other liens, which lien shall secure the repayment of any advance payments made hereunder together with interest charges thereon.

(9) *Lien on property under contract.* Any and all advance payments made under this contract, together with interest charges thereon, shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, upon the supplies or other things covered by this contract and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other provision of this contract, or otherwise, shall have valid title to such supplies, materials, or other property as against other creditors of the Contractor. The Contractor shall identify by marking or segregation all property which is subject to a lien in favor of the Government by virtue of any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this contract. If for any reason such supplies, materials, or other property are not identified by marking or segregation, the Government shall be deemed to have a lien to the extent of the Government's interest under this contract on any mass of property with which such supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over such property on its books and records. If at any time during the progress of the work on the contract it becomes necessary to deliver any item or items and materials upon which the Government has a lien as aforesaid to a third person, the Contractor shall notify such third person of the lien herein provided and shall obtain from such third person a receipt, in duplicate, acknowledging, inter alia, the existence of such lien. A copy of each receipt shall be delivered by the Contractor to the Contracting Officer. If this contract is terminated in whole or in part and the Contractor is authorized to sell or retain termination inventory acquired for or allocated to this contract, such sale or retention shall be made only if approved by the Contracting Officer, which approval shall constitute a release of the Government's lien hereunder to the extent that such termination inventory is sold or retained, and to the extent that the proceeds of the sale, or the credit allowed for such retention on the contractor's termination claim, is applied in reduction of advance payments then outstanding hereunder.

(10) *Insurance.* The Contractor represents and warrants that it is now maintaining with responsible insurance carriers, (i) insurance upon its own plant and equipment against fire and other hazards to the extent that like properties are usually insured by others operating plants and properties of similar character in the same general locality; (ii) adequate insurance against liability on account of damage to persons or property; and (iii) adequate insurance under all applicable workmen's compensation laws. The Contractor agrees that, until work under this contract has been completed and all advance payments made hereunder had been liquidated, it will (i) maintain such insurance; (ii) maintain adequate insurance upon any

materials, parts, assemblies, sub-assemblies, supplies, equipment and other property acquired for or allocable to this contract (except property to which the Government has title under any of the other provisions of this contract); and (iii) furnish such certificates with respect to its insurance as the Administering Office may from time to time require.

(11) *Default provisions.* Upon the happening of any of the following events of default, (i) termination of this contract by reason of fault of the Contractor; (ii) failure of the Contractor to observe any of the covenants, conditions or warranties of these provisions; (iii) appointment of a trustee, receiver or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization, arrangement or liquidation proceedings by or against the Contractor; (iv) service of any writ of attachment, levy of execution, or commencement of garnishment proceedings with respect to the Special Bank Account; or (v) the commission of an act of bankruptcy: the Government, without limiting any rights, which it may otherwise have, may, in its discretion and upon written notice to the Contractor, withhold further withdrawals from the Special Bank Account. Upon the continuance of any such events of default for a period of thirty (30) days after such written notice to the Contractor, the Government may, in its discretion, and without limiting any other rights which the Government may have, take the following additional actions as it may deem appropriate in the circumstances; (a) withdraw all or any part of the balance in the Special Bank Account by checks payable to the Treasurer of the United States signed solely by the Countersigning Agent and apply such amounts in reduction of advance payments then outstanding hereunder; (b) charge interest on advance payments outstanding during the period of any such event of default at the rate of six percent (6%) per annum; (c) demand immediate repayment of the unliquidated balance of advance payments hereunder; or (d) take possession of and, with or without advertisement, sell at public sale at which the Government may be the purchaser, or at a private sale, all or any part of the property on which the Government has a lien under this contract and, after deducting any expenses incident to such sale, apply the net proceeds of such sale in reduction of the unliquidated balance of advance payments hereunder.

(12) *Prohibition against assignment.* Notwithstanding any other provisions of this contract, the Contractor shall not transfer, pledge, or otherwise assign this contract, or any interest therein, or any claim arising thereunder, to any party or parties, bank trust company or other financing institution, until all advance payments made under this contract have been fully liquidated.

(13) *Financial information.* The Contractor shall furnish to the Administering Office signed or certified balance sheets and profit and loss statements quarterly, or at such other intervals as may be required, together with a monthly report on the operation of the Special Bank Account in prescribed form, and such other financial information concerning the operation of the Contractor's business as may be requested. The Contractor shall afford to authorized representatives of the Government proper facilities for inspection and audit of the Contractor's financial records and accounts.

(14) *Designations and determinations.* (a) Amount: The aggregate amount of the advance payments to be made hereunder shall not exceed $_____, or _____ percent of the contract price (which is now $_____), as it may be amended, whichever shall be the smaller. (For cost reimbursement contracts, insert the following:) (a) Amount. The aggregate amount of the advance payments to be made hereunder shall not exceed $_____, or _____ percent of the estimated cost of this contract (exclusive of the Contractor's fixed fee), as such cost may be amended from time to time, whichever shall be the smaller.

(b) Depository: The bank designated for the deposit of advance payments made hereunder shall be _____.

(c) Interest charge: Interest shall be charged in the manner provided herein at the rate of four percent per annum. (In the case of advance payments made without interest, insert the following:)

No interest shall be charged for advance payments made hereunder, except as provided for in paragraph (11) (b). The Contractor shall charge interest at the rate of four percent per annum on sub-advances or down payments to subcontractors, and such interest will be credited to the account of the Government. However, interest need not be charged on sub-advances on nonprofit subcontracts with nonprofit educational or research institutions for experimental, research or development work.

(d) Administering office: The office administering advance payments is designated as _____.

(In the case of a fixed-price contract, insert the following two paragraphs:)

(e) Use of funds: The funds in the Special Bank Account shall be withdrawn solely for the purposes of making payments, for direct materials, direct labor, and administrative and overhead expenses required for the purposes of this contract (including, without limitation, payments incident to termination for the convenience of the Government) and properly allocable thereto in accordance with generally accepted accounting principles or for the purpose of reimbursing the Contractor for such payments.

(f) Liquidation: If not otherwise liquidated, the advance payments made hereunder and interest charges, if any, shall be liquidated as herein provided. When the sum of all payments under this contract, other than advance payments, plus the unliquidated amount of such advance payments made to the Contractor under this contract and interest charges due the Government are equal to (_____ percent) of the stated contract price of $_____, or such lesser amount to which the contract price may have been reduced, plus (i) increases, if any (not resulting from any provisions for price redetermination or escalation), in the above stated contract price not exceeding, in the aggregate, $_____;

(Insert here not more than 10 percent of stated contract price above)

and (ii) all increases in contract price resulting from any provisions for price redetermination or escalation, the Government shall thereafter withhold further payments to the Contractor and apply the amounts withheld against the Contractor's obligation to repay such advance payments made hereunder and interest charges until such advance payments and interest charges shall have been fully liquidated.

(The percentage stated above should not be more than 95 percent.) (In appropriate cases, the following may also be used, with the same percentage specified as that stated in paragraph (14) (a), above): In addition to the foregoing, liquidation of the principal amount of any advance payment made to the Contractor hereunder shall be made by deductions of _____ percent from any and all payments made by the Government under the contracts involved.

(In the case of a cost reimbursement contract, insert the following two paragraphs:)

(e) Use of funds: The funds in the Special Bank Account shall be withdrawn solely for the purposes of making payments for items of allowable cost as defined in Article _____ of this contract, or to reimburse the Contractor for such items of allowable cost.

(f) Liquidation: If not otherwise liquidated, the advance payments made hereunder and interest charges, if any, shall be liquidated as herein provided. When the sum of all payments under this contract, other than advance payments, plus the unliquidated amount of such advance payments made to the Contractor under this contract and interest charges due the Government are equal to the total estimated cost of $_____ for the work under this contract (not including fixed fee, if any), or such lesser amount to which the total estimated cost under this contract may have been reduced, plus increases, if any, in this total estimated cost not exceeding, in the aggregate, $_____;

(Insert not more than 10 percent of estimated cost stated above)

(including, without limitation, reimbursable costs incident to termination for the convenience of the Government as estimated by the Contracting Officer), the Government shall thereafter withhold further payments to the Contractor and apply the amounts withheld against the Contractor's obligation to repay such advance payments made hereunder and interest charges, until such advance payments and interest charges shall have been fully liquidated.

(15) *Other security.* The terms of this contract shall be considered adequate security for advance payments hereunder, except that if at any time the Administering Office deems the security furnished by the Contractor to be inadequate, the Contractor shall furnish such additional security as may be satisfactory to the Administering Office, to the extent that such additional security is available.

(16) *Representations and warranties.* To induce the making of the advance payments, the Contractor represents and warrants that:

(a) The balance sheet, the profit and loss statement and any other supporting financial statements, heretofore furnished to the Administering Office, fairly reflect the financial condition of the Contractor at the date shown on said balance sheet and the results of the operation for the period covered by the profit and loss statement, and since said date there has been no materially adverse change in the financial condition of the Contractor.

(b) No litigation or proceedings are presently pending or threatened against the Contractor, except as shown in the above statements.

(c) The Contractor, apart from liability resulting from the renegotiation of defense production contracts, has no contingent liabilities not provided for or disclosed in the financial statements furnished to the Administering Office.

(d) None of the provisions herein contravenes or is in conflict with the authority under which the Contractor is doing business or with the provision of any existing indenture or agreement of the Contractor.

(e) The Contractor has the power to enter into this contract and accept advance payments hereunder, and has taken all necessary action to authorize such acceptance under the terms and conditions of this contract.

(f) None of the assets of the Contractor is subject to any lien or encumbrance of any character except for current taxes not delinquent, and except as shown in the financial statements furnished by the Contractor to the Administering Office. There has been no assignment of claims under any contract affected by these advance payment provisions, or if there has been any assignment, such assignments have been terminated.

(g) All information furnished by the Contractor to the Administering Office in connection with each request for advance payments is true and correct.

(h) These representations and warranties shall be continuing, and shall be deemed to have been repeated by the submission of each invoice for advance payments.

(17) *Sub-advances.* Substantially the following provision should be included in the contract when sub-advances are contemplated:

Subject to the prior written approval of the Administering Office, funds from the Special Bank Account may be used by the Contractor to make advance payments or down payments to subcontractors and materialmen in advance of performance by the subcontractor or materialman. Such sub-advances shall not exceed ____ percent of the subcontract price or estimated cost as the case may be, and the subcontractors or materialmen to whom such advances are made shall furnish adequate security therefor. Unless other security is required by the Administering Office, covenants in subcontracts, expressly made for the benefit of the Government, providing for a Special Bank Account for the sub-advance, with Government lien thereon, and providing for a Government lien, paramount to all other liens, on all property under such subcontract, and imposing upon the subcontractor and the depository bank substantially the same duties and giving the Government substantially the same rights as are provided herein (and in the Agreement for Special Bank Account supplementary hereto) between the Government, the Contractor and the Bank, may be considered as adequate security for such sub-advance.

(18) *Covenants.* The following are examples of some special protective provisions (subject to modification to adapt to the circumstances of individual cases) that may be utilized when and to the extent deemed appropriate in particular cases.

During the period of time that advance payments may be made hereunder, and so long as any such advance payments remain unliquidated, the Contractor shall not, without the prior written consent of the Administering Office—

(a) Mortgage, pledge, or otherwise encumber, or suffer to be encumbered, any of the assets of the Contractor now owned or hereafter acquired by it, or permit any pre-existing mortgages, liens, or other encumbrances to remain on or attach to any assets of the Contractor which may be allocated to the performance of this contract or with respect to which the Government shall have or acquire a lien hereunder;

(b) Sell, assign, transfer or otherwise dispose of accounts receivable, notes or claims for money due or to become due;

(c) Declare or pay any dividends, except dividends payable in stock of the corporation, or make any other distributoin on account of any shares of its capital stock, or purchase, redeem, or otherwise acquire for value any such stock, except as required by sinking fund or redemption arrangements reported to the Administering Office incident to the establishment of these advance payment provisions;

(d) Sell, convey or lease all or a substantial part of its assets;

(e) Acquire for value the stock or other securities of any corporation, municipality, or Governmental authority, except direct obligations of the United States;

(f) Make any advance or loan to or incur any liability as guarantor, surety, or accommodation endorser for any other firm, person, or corporation;

(g) Permit a writ of attachment or any similar process to be issued against its property without procuring release thereof or bonding the same within 30 days after the entry of the writ of attachment or any similar process;

(h) Pay any salaries, commissions, bonuses, or other remuneration in any form or manner to its directors, officers, or key employees in excess of existing rates of payments or of rates provided in existing agreements, in connection with which notice has been given to the Administering Office, or accrue such excess remuneration without first obtaining an agreement subordinating the same to all claims of the Government hereunder;

(i) Make any substantial change in management, ownership, or control of the corporation;

(j) Merge or consolidate with any other firm or corporation, change the type of its business, or engage in any transaction outside the ordinary course of its business as presently conducted;

(k) Deposit any of its funds except in a bank or trust company insured by the Federal Deposit Insurance Corporation;

(l) Create or incur indebtedness for borrowed money or advances other than advances to be made hereunder, except as specified herein;

(m) Make or covenant itself to make capital expenditures exceeding in the aggregate $_____;

(n) Permit its net current assets, calculated in accordance with generally accepted accounting principles, to become less than $_____; or

(o) Make any payments on account of the obligations listed below, except in the manner and to the extent herein provided.

APPENDIX 1

THE DEPUTY SECRETARY OF DEFENSE

MEMORANDUM FOR THE SECRETARIES OF THE MILITARY DEPARTMENTS, THE ASSISTANT SECRETARY OF DEFENSE (COMPTROLLER), THE CHAIRMAN OF THE MUNITIONS BOARD

14 OCTOBER 1950.

Subject: Defense Contract Financing Policy.

The purpose of this memorandum is to establish basic contract financing policy for the Department of Defense to assure proper uniformity in policies, procedures, and forms, and to provide for application of the fundamental management principle of internal check and balance.

The term "financing" as used in this directive covers government guaranteed loans, direct loans by the Military Departments, advance payments, and progress and partial payments (except partial payments for delivery of one or more completed units called for under a contract) necessary for both performance and termination purposes, to the extent authorized by law (insofar as progress and partial payments are concerned, it is contemplated that contract financing officers will participate in the development of appropriate standard contract provisions designed to avoid undue risk to the Government and would participate only in specific cases involving unusual financial arrangements and conditions).

Financing must support procurement and should be designed to aid not impede essential procurement, but should be so administered as to minimize the risk of monetary loss to the Government to the extent compatible with aiding essential procurement. To this end:

a. In terms of organization, the financing function should be separated from the procurement function, but close cooperation between the procurement and financing functions should be preserved at all times.

b. Procuring activities in placing contracts must give due regard to the financial capabilities of the supplier.

c. Government financing for production or services should be provided only if, and to the extent, reasonably required for prompt and efficient performance of government contracts and subcontracts.

d. Financing through guaranteed or direct government loans or advance payments should be made available to a supplier in cases where (1) the production or service is essential and (2) no alternative source is readily available.

e. It is recognized that adequate protection against the financial impact of termination of government contracts and subcontracts should encourage suppliers to invest their own funds in performance under such contracts and that financing for termination purposes will be an important aid to ultimate reconversion of industry to peacetime activities. Accordingly, termination financing may be made available, with appropriate protection of the Government's interest, either in connection with or independently of performance financing.

f. If a disagreement arises between the financing office and the interested procurement activity in any department as to whether, to what extent, or in what form, financing should be furnished, the matter will be referred immediately to and resolved in the higher echelons of authority responsible respectively for financing and procurement functions, subject to any issue being resolved ultimately by the Secretary of the Department concerned.

When financing through loans or advance payments is requested, the interested procuring activity shall certify that the case meets the requirements set forth in d above and shall accompany such certification with adequate supporting data pertinent to the case.

Uniform financing policies and, so far as practicable, uniform procedures and standard forms are to be used by the Military Departments and, to the extent mutually agreed upon by the Military Departments, facilities and personnel are to be used in common. In formulating such policies, procedures, and forms due regard shall be given to the desirability of following, so far as consistent with present circumstances, the policies and procedures developed during World War II.

In determining what form of financing shall be recommended or made available to suppliers, the following order of preference should generally be observed, recognizing that there may be valid exceptions in specific cases or classes of cases:

a. Private financing (without governmental guarantee).

b. Progress or partial payments.

c. Guaranteed loans (with financing institutions participating to an extent appropriate to the risk involved).

d. Advance payments.

e. Direct loans.

The responsibility for insuring uniform administration of financing in accordance with this directive shall be in the Assistant Secretary of Defense (Comptroller). Specific cases need not be referred to the Office of the Assistant Secretary (Comptroller), unless policy or important procedural problems are involved, and the day-to-day financing operations shall be the responsibility of the Military Departments.

Responsibility for financing in each Department shall be in the Under or Assistant Secretary responsible for the comptroller function, with the focal point of such activities at departmental headquarters although contract financing offices may be established at the operational level determined by that Department.

There shall be a Contract Finance Committee composed of a representative of the Assistant Secretary of Defense (Comptroller) as Chairman, a representative of the Munitions Board and two representatives of each Military Department (one representing procurement and one representing the contract finance office), which committee shall meet frequently. This Committee shall advise and assist the Assistant Secretary of Defense (Comptroller) in assuring proper and uniform application of policies and the development of procedures and forms, and may from time to time recommend to the Secretary of Defense through the Assistant Secretary of Defense (Comptroller) and the Munitions Board such further policy directives on the subject of financing as may appear desirable. For matters involving guaranteed loans, a

representative of the Board of Governors of the Federal Reserve System may be invited to meet with the Committee. The Committee also may from time to time secure the advice of representatives of other branches of the Government and other persons and may invite such representatives and persons to its meetings.

The policies stated herein are effective immediately, and all departments and agencies concerned are directed to immediately initiate action to conform thereto.

[Signed] ROBERT A. LOVETT.

APPENDIX 2

DEPARTMENT OF DEFENSE DIRECTIVE

Title—Fiscal Management.
Subtitle—Contract Financing.
Number 70.03-1.

DEFENSE CONTRACT FINANCING POLICY—ADVANCE PAYMENTS

7 NOVEMBER 1951.

In order to clarify certain questions which have arisen concerning advance payments, this supplements and amends the memorandum of 6 April 1951, from the Deputy Secretary of Defense, on the same subject.

The second paragraph of Part II of that memorandum of 6 April 1951 is amended to read as follows:

"Interest will be charged on all advance payments hereafter authorized, at the rate of 4 percent per annum on the unliquidated balance; provided, however, advance payments may be approved without interest when in connection with contracts which provide for performance at cost, (without profit or fee to the contractor), or, in unusual cases, when specifically authorized by the Assistant Secretary responsible for the comptroller function. In this connection, contracts for acquisition of facilities at cost, for Government ownership, in combination with or in contemplation of supply contracts or subcontracts, and cost-plus-fixed-fee or other profit-type contracts for the management or operation of Government-owned plants, will be treated as ordinary profit contracts requiring interest on advance payments.

"In pending cases in which negotiations for these facilities acquisition or Government plant management contracts have been completed on the basis of contemplated approval of advance payments without interest, the Assistant Secretary concerned, in his discretion, may waive interest if the case is submitted for his approval of advance payments on or before 7 November 1951."

Part II of the above-mentioned memorandum of 6 April 1951 is hereby supplemented by the following:

"Contracts with interest-free advance payments, hereafter authorized, should provide that the contractor will charge interest at the rate of 4 percent per annum on sub-advances or down payments to subcontractors, and that interest charged on such sub-advances or down payments will be credited to the account of the Government. However, interest need not be charged on sub-advances on nonprofit subcontracts with nonprofit educational or research institutions for experimental, research or development work.

"Advance payments should be used sparingly and care should be taken to see that advances outstanding do not exceed the actual reasonable requirements for the contracts. The amount of the advance payment in any case should be based upon an analysis of the cash flow required under the contract, and as a general rule should not exceed the interim cash needs arising during the reimbursement cycle.

"Generally, except for (1) nonprofit contracts with nonprofit educational or research institutions for experimental, research and development work, and (2) contracts solely for the management and operation of Government-owned plants, advance payments should not be authorized unless no other means of adequate financing is available to the contractor, and the amount of the authorization is predicated upon use of the contractor's own working capital to the extent possible.

"The Government may not be committed, in any manner, directly or indirectly, to make an advance payment without the approval of the Assistant Secretary responsible for the comptroller function (or in appropriate cases, of the persons to whom advance payment approval authority has been delegated in accordance with the last paragraph of Part I of the memorandum of 6 April 1951), and no procurement involving advance payments may become final until such approval is obtained."

The above-mentioned memorandum of 6 April 1951 (attached) is continued in effect, except as modified by the foregoing.

[Signed] WILLIAM C. FOSTER.
Acting Secretary.

Attachment—(1).

[Attachment—(1)]

THE DEPUTY SECRETARY OF DEFENSE

MEMORANDUM FOR THE SECRETARY OF THE ARMY, THE SECRETARY OF THE NAVY, THE SECRETARY OF THE AIR FORCE, THE ASSISTANT SECRETARY OF DEFENSE (COMPTROLLER), THE CHAIRMAN, MUNITIONS BOARD

6 APRIL 1951.

Subject: Defense Contract Financing Policy—Advance Payments.

I. *First War Powers Act, as amended.* Pursuant to the First War Powers Act, 1941, as amended by the act of January 12, 1951 (Public Law 921, 81st Cong.) and Executive Order No. 10210 of February 2, 1951, the Department of the Army, the Department of the Navy, and the Department of the Air Force are authorized to make advance payments under contracts heretofore or hereafter made, without regard to other provisions of law relating to contracts, including advance payments under contracts awarded on competitive bids after formal advertising, and to amend such contracts to provide for advance payments.

All contracts and amendments to contracts providing for advance payments made under the authority of the above-cited act and Executive order shall:

a. Make reference to the act and the Executive order;

b. Include a finding that the national defense is facilitated thereby; and

c. Include the following clause:

Examination of Records

(a) The Contractor (which term as used in this clause means the party contracting to furnish the supplies or perform the work required by this contract) agrees that the Comptroller General of the United States or any of his duly authorized representatives shall have access to and the right to examine any pertinent books, documents, papers, and records of the Contractor involving transactions related to such contract.

(b) The Contractor agrees to insert the provisions of this clause, including this paragraph (b), in all subcontracts hereafter made, if such subcontracts provide for advance payments.

The advance payment agreement under the above-cited act and Executive order should provide for deposit of all payments into special bank accounts and should include suitable covenants to protect the Government's interest. Advance payments under such authorizations should be limited to the contractor's financial needs, and withdrawals from the special bank accounts provided therefor should be closely supervised. The terms governing advance payments should include as security, in addition to or in lieu of the requirements for an advance payment bond or other security, provision for a lien in favor of the Government, paramount to all other liens, upon the supplies contracted for, upon the credit balance in any special account in which such payments may be deposited, and upon such of the material and other property acquired for performance of the contract, as the parties shall agree.

Complete data shall be maintained by each Department as to all contracts and amendments to contracts relating to advance payments made pursuant to the above-cited act and Executive order.

Pursuant to the above-cited act and Executive order, the authority in each case to approve contract provisions for advance payments, or to authorize the terms and conditions thereof, may be delegated within each Department to the Assistant Secretary responsible for the comptroller function, with power of redelegation under such Assistant Secretary no further than, to the Chief of Finance (and an alternate within his office) in the Department of the Army, to the Assistant Comptroller, Accounting, Audit, and Finance (and an alternate within his office) in the Department of the Navy, and to the Deputy for Contract Financing to the Assistant Secretary (Management) of the Air Force (and an alternate responsible to such Deputy for Contract Financing).

II. *General.* The following provisions will apply to all advance payments hereafter authorized, whether pursuant to the Armed Services Procurement Act of 1947 (Public Law 413, 80th Cong.) or pursuant to the First War Powers Act, as amended.

Interest will be charged on all advance payments hereafter authorized, usually at the rate of 4 percent per annum on the unliquidated balance; provided, however, advance payments may be approved without interest when in connection with contracts which provide for performance at cost (without profit or fee to the contractor), or when specifically authorized by the Assistant Secretary responsible for the comptroller function.

The responsibility and authority for making determinations and findings with respect to advance payments, and in each case for approval of contract provisions for advance payments, or for approval of the terms and conditions thereof, shall be in the Assistant Secretary responsible for the comptroller function in each Military Department. (With respect to advance payments under the First War Powers Act, as amended, this authority may be delegated as provided in the last paragraph of section I above.)

If a disagreement arises between the financing office and the interested procurement activity in any department as to whether, to what extent, or in what form, financing should be furnished, the matter will be referred immediately to and resolved in the higher echelons of authority responsible respectively for financing and procurement functions, subject to any issue being resolved ultimately by the Secretary of the department concerned.

Each Department shall submit reports of financing activities at such times and in such form as may be prescribed by the Assistant Secretary of Defense (Comptroller).

This memorandum supplements the memorandum of 14 October 1950 on Defense Contract Financing Policy.

These regulations may be promulgated over the signature of the Secretary of each military department with a statement that they have been approved by the Secretary of Defense. Such promulgation would, of course, require appropriate deletion of references herein to the other two military departments, and deletion of this and the preceding paragraph.

[Signed] ROBERT A. LOVETT.

Attachment—1.

APPENDIX 3

THE DEPUTY SECRETARY OF DEFENSE

MEMORANDUM FOR THE SECRETARY OF THE ARMY, THE SECRETARY OF THE NAVY, THE SECRETARY OF THE AIR FORCE, THE ASSISTANT SECRETARY OF DEFENSE (COMPTROLLER), THE CHAIRMAN OF THE MUNITIONS BOARD

FEBRUARY 1, 1951.

Because of developments since promulgation of my memorandum of 14 October 1950 establishing basic Defense Contract Financing Policy it appears desirable to issue a formal statement of current fiscal policy regarding use by the Military Departments of guaranteed loan authority pursuant to section 301 of the Defense Production Act of 1950.

Guaranteed loans under section 301 will be used primarily for working capital purposes as was done during World War II. Such guarantee authority will not be used for loans for facilities expansion.

It is contemplated that essential facilities expansion will be provided pursuant to the authority and funds under sections 302, 303 (d), and 304 of the Defense Production Act of 1950, and pursuant to specific authority and funds available under appropriation to the Military Departments for this purpose.

It is not the purpose of this memorandum, however, to preclude guarantees in cases in which a relatively small part of the loan might be used for facilities expansion of a minor or incidental nature; provided, that the borrower's financial condition is such that the facilities expansion will not delay or impair repayment of a guaranteed loan which would be granted on a commercial banking basis.

[Signed] ROBERT A. LOVETT.

APPENDIX 4

Form of September 27, 1950
(As amended to January 17, 1951)

V-LOAN GUARANTEE AGREEMENT

No. _____

The _____ (herein called
(Guaranteeing agency)
"Guarantor"), acting through the Federal Reserve Bank of _____ as fiscal agent of the United States, pursuant to the Defense Production Act of 1950 and Executive Order No. 10161, and the Financing Institution, as hereinafter defined, hereby agree each with the other as follows:

Section 1. Definitions

As used in this agreement—

(A) The words "Financing Institution" shall mean _____

_____

_____

(B) The word "Borrower" shall mean_____

_____

(Name)

of _____

(Address)

the said Borrower being engaged or about to engage in the performance of a contract or other operation deemed by the Guarantor to be necessary to expedite production and deliveries or services under a Government contract for the procurement of materials or the performance of services for the national defense.

(C) The words "the loan" shall mean a financing arrangement between the Financing Institution and the Borrower, the terms and conditions of which are briefly described as follows:

(The description of the loan shall include the following items in the following order: Type of loan (straight loan or revolving credit), principal amount (maximum amount of credit in the case of a credit), interest rate, and maturity (latest maturity in the case of a credit). Provisions as to collateral and other protective provisions prescribed by the Guarantor should also be described here, or, if preferred, by referring to an annexed loan agreement or other similar instrument; but the terms and the provisions of such agreement or instrument should not be made a part of or incorporated in the guarantee agreement.)

_____

_____

_____

_____

(D) The word "obligation" shall mean the instrument or instruments evidencing the Borrower's indebtedness under the loan and any renewals or extensions thereof.

(E) The term "guaranteed percentage" shall mean (1) _____ percent, or (2) the percentage specified above as increased by an adjustment thereof under section 8 or section 9 of this agreement.

(F) The term "unguaranteed percentage" shall mean the difference between 100 percent and the guaranteed percentage.

(G) The words "collateral for the loan" shall mean all collateral or security specified in the description of the loan under paragraph (C) of this section or taken or accepted in substitution for such specified collateral or security, and any collateral or security hereafter taken or accepted for the specific protection of the loan.

(H) The words "interest in the obligation" shall mean the amount of the obligation owned by the Guarantor or by the Financing Institution, as the case may be.

(I) The word "Holder" shall mean the party to this agreement which has possession of the obligation and shall be determined in accordance with the provisions of sections 4 and 10 of this agreement.

(J) The words "Reserve Bank" shall mean the Federal Reserve Bank of _____ as fiscal agent of the United States acting on behalf of the Guarantor in accordance with the provisions of the Defense Production Act of 1950 and Executive Order No. 10161 of September 9, 1950, and applicable provisions of law.

(K) A "defense production contract" shall mean any contract made or order accepted by the Borrower for the sale or furnishing by the Borrower of materials, equipment, supplies, facilities, or services or for the processing or treatment by the Borrower of materials, which (1) constitutes (a) a prime contract with any guaranteeing agency designated by the Defense Production Act of 1950 or by Executive Order issued thereunder or with the Atomic Energy Commission or any other Government department or agency directly or indirectly and substantially concerned with the national defense as the term "national defense" is defined in section 702 (d) of the Defense Production Act of 1950, or (b) a contract made or order accepted by the Borrower to aid directly or indirectly in the performance of any such prime contract, and (2) is related to the procurement of materials or the performance of services for the national defense.

Section 2. Guarantee as to Sharing of Losses and Expenses.

(A) All losses of principal and interest on the loan, and all expenses as defined in paragraph (D) of this section, shall be shared ratably by the Guarantor and the Financing Institution in accordance with the guaranteed percentage and the unguaranteed percentage, respectively, as such losses, expenses and percentages exist on the date of settlement between the Financing Institution and the Guarantor, regardless of whether or not any purchase has been made under this agreement.

(B) The date of settlement between the Financing Institution and the Guarantor shall be such date as may be agreed upon by the parties or, if no such date is agreed upon, the thirtieth day after the date on which either party to this agreement receives from the other party a written request for such settlement, but no such request will be made by the Guarantor prior to maturity nor prior to the time when the amount of the ultimate losses and expenses appears to be determinable with reasonable certainty.

(C) In determining losses under paragraph (A) of this section, all amounts which, on the date of settlement, have not been paid shall be regarded as losses even though they may appear to be recoverable thereafter. All net recoveries realized after the date of settlement, from whatever source realized, shall be shared ratably by the Guarantor and the Financing Institution on the basis prescribed in this section.

(D) For the purposes of this section, expenses shall mean all reasonable out-of-pocket expenses (including reasonable counsel fees incurred by the Financing Institution or the Reserve Bank prior to but not after any purchase under this agreement) which relate to the enforcement of the loan or the preservation of the collateral and which are incurred during the period of any default in the payment of principal or interest, and which have not been recovered from the Borrower.

(E) Within the meaning of paragraphs (A) and (C) of this section a loss on the loan shall include any amounts which may have been received by the Financing Institution and applied by it to reduction of the loan but which are subsequently recovered from the Financing Institution, either before or after the date of settlement, by the United States or by any person lawfully entitled to such recovery.

Section 3. Agreement to Purchase

(A) Upon written demand or demands made by the Financing Institution on the Reserve Bank at any time prior to the date of settlement between the Guarantor and the Financing Institution, the Guarantor will purchase from the Financing Institution, on the tenth (10th) day after the receipt by the Reserve Bank of such a demand, the guaranteed percentage of the unpaid principal amount of the loan, less any amounts which have been previously purchased by the Guarantor under any provision of this agreement and have not been repaid. Such purchases will be made by the Guarantor from time to time either as a whole or in such portions as may be demanded in writing as above specified.

(B) Any purchase by the Guarantor pursuant to any provision of this agreement shall be made at the Reserve Bank, and the amount that the Guarantor shall pay shall be the face amount of the portion of the unpaid prrincipal amount of the obligation so purchased, as of the date of the demand, plus all unpaid accrued interest on such portion, with appropriate adjustment for guarantee fees, computed as of the date of purchase. Such purchase shall be made for cash, except that if the Guarantor owns an interest in any obligation which has been issued under a revolving credit arrangement and if, at or before the maturity of such obligation, the Reserve Bank receives written demand from the Financing Instiution for the purchase of the same or a lesser amount of a new obligation to be issued in place of such maturing obligation, payment for the portion of the new obligation purchased pursuant to such demand will be made by the Guarantor by surrendering, at or before maturity, its interest in the maturing obligation, in the amount of the demand by the Financing Institution and without regard to the ten-day period specified in paragraph (A) of this section.

Section 4. Administration of Loan and Possession of Obligation and Collateral

(A) Prior to any purchase under this agreement, the Financing Institution shall administer the loan and shall hold the obligation and the collateral for the loan. Whenever the Guarantor becomes the owner of any

part of the loan under this agreement, the Financing Institution shall continue to administer the loan and to hold said obligation and collateral, and shall forthwith deliver to the Reserve Bank a certificate reciting that the Financing Institution holds said obligation and collateral for the account of the Guarantor to the extent of the Guarantor's interest therein. In any such case, however, upon written demand by the Reserve Bank, the Financing Institution shall forthwith endorse the obligation to the Reserve Bank without recourse or warranty and shall assign the collateral (or its interest therein if such collateral cannot be assigned because it is held for the account of more than one Financing Institution) to the Reserve Bank without recourse or warranty, except as to the genuineness of the signature of the Borrower to any instrument, and shall forthwith deliver to the Reserve Bank possession of the obligation and of the collateral (or an assignment of its interest therein as above provided). Thereupon the Reserve Bank shall issue to the Financing Institution a certificate reciting that the Reserve Bank holds said obligation and collateral for the account of the Financing Institution to the extent of the Financing Institution's interest therein. Thereafter the Guarantor, through the agency of the Reserve Bank shall administer the loan and shall hold said obligation and collateral for the account of the Guarantor and the Financing Institution as their interests in the obligation may appear. The Guarantor and the Financing Institution shall at all times during the existence of this agreement have the right to examine and inspect said obligation and collateral.

(B) Whenever the Guarantor becomes the Holder of the obligation, the Financing Institution will at any time at the written request of the Guarantor furnish to the Guarantor such instruments as may be reasonably necessary or appropriate to enable the Guarantor to administer the loan and enforce the obligation and collateral for the loan in accordance with the terms of the loan.

(C) Nothing contained in this or any other section of this agreement shall be construed to prevent the Financing Institution from offering the obligation as collateral for advances by a Federal Reserve Bank, if such obligation is otherwise eligible and acceptable as collateral for such advances.

Section 5. Ratable Application of Collections

All amounts at any time paid or credited on the obligation, from whatever source realized, shall be applied ratably for the benefit of the Financing Institution and the Guarantor according to their respective interests in the obligation. All amounts so paid or credited upon the obligation after the date of a demand by the Financing Institution or the Guarantor, as the case may be, for a purchase under this agreement and prior to the date of such purchase shall be applied as above provided according to such respective interests of the Guarantor and the Financing Institution as such interests exist immediately after such purchase. The Holder of the obligation and collateral shall receive all payments from the Borrower in connection with the obligation and shall promptly remit to the other party to this agreement such other party's share thereof.

Section 6. Application of Proceeds of Collateral and Other Assets

(A) There shall first be applied to the full payment of the loan before they are applied to the payment of other indebtedness of the Borrower to the Financing Institution: (1) All proceeds of any collateral for the loan; and (2) all proceeds of accounts receivable and of inventories (including finished products and work in process) arising under the Borrower's defense production contracts, to the extent that such accounts receivable or inventories are taken or appropriated by the Financing Institution, except defense production contracts under which claims may heretofore have been, or may with the written consent of the Guarantor hereafter be, specifically assigned to the Financing Institution as security solely for other indebtedness of the Borrower to the Financing Institution. If any funds on deposit, or other amounts payable to the Borrower by the Financing Institution, or other assets of the Borrower (except those described in clause (2) above) which are not specifically pledged as security for any indebtedness shall be taken or appropriated by the Financing Institution, the Financing Institution shall apply such funds and the proceeds of such other assets pro rata against the then unpaid balance of the loan and the then unpaid balance of such other indebtedness of the Borrower to the Financing Institution. Funds on deposit, amounts payable, and other assets shall not be considered to be specifically pledged for any indebtedness, within the meaning of this section, if the right of the Financing Institution to apply the proceeds thereof to such indebtedness exists only by virtue of the right of banker's lien or setoff or only by virtue of a "spreader," "overlap" or "cross-lien" provision in any note or loan agreement.

(B) There shall first be applied by the Guarantor to the full payment of the loan, before they are applied to the payment of other indebtedness of the Borrower to the Guarantor, all proceeds obtained by the Guarantor from: (1) accounts receivable and inventories (including finished products and work in process) arising under the Borrower's defense production contracts, and (2) any right of priority accruing to the Guarantor on account of any claim by the Guarantor against the Borrower, and (3) any right of setoff in respect of amounts due to the Borrower on any defense production contract (except a right of setoff arising out of a claim under the same contract); except that the foregoing shall not apply to any pledge, lien, or other security taken by the Guarantor as collateral for an advance payment or loan by the Guarantor to the Borrower.

Section 7. Actions as to Obligation or Collateral

The Holder shall not, without the prior written consent of the other party to this agreement, (a) make or consent to any material alteration in the terms of the loan or collateral for the loan; (b) make or consent to any release, sale, transfer further pledge, subordination or substitution of any of said collateral for the loan; or (c) give any consent or waiver under any provision of the loan. However, the consent of the other party shall not be necessary with respect to any release or substitution of such collateral required or authorized by the terms of the loan as such terms are described in paragraph (O) of section 1 of this agreement or in any instrument referred to therein, and no notice of any such action need be given to the other party. The Holder, unless prior objection thereto shall have been made in writing by the other party, may extend the term of the loan, but, without the prior written consent of the other party, not more than once and for not more than sixty (60) days; but notice of any such extension shall be thereafter promptly transmitted to the other party. The taking of additional collateral or security shall not be considered a material alteration in the terms of the loan or collateral for the loan.

Section 8. Refusal of Guarantor to Consent to Accelerated Maturity

The Financing Institution, if it be the Holder, shall not exercise any option to accelerate the maturity of the obligation without the prior written consent of the Guarantor. If such an option exists (whether or not conditioned upon the giving of notice to the Borrower) on the part of the Holder to accelerate the maturity of the obligation and (a) the Guarantor fails to give its written consent, within ten (10) days after the Reserve Bank shall have received a written request from the Financing Institution to do so, to the acceleration of the maturity of the obligation or (b) if the Guarantor be the Holder and does not, within ten (10) days after the Reserve Bank shall have received a written request from the Financing Institution that the Guarantor do so, initiate appropriate action to accelerate the maturity of the obligation, the guaranteed percentage shall thereupon, in either event, effective ten (10) days after the receipt of such request, be 100 per cent. The Guarantor may, after giving notice to the Financing Institution, exercise any option to accelerate the maturity of the obligation without obtaining the consent of the Financing Institution, and the loan shall so provide.

Section 9. Failure to Sue or Consent to Suit

The Financing Institution, if it be the Holder, shall not, without the prior written consent of the Guarantor, bring suit to enforce payment of the obligation or any instalment thereof, or directly or indirectly institute bankruptcy, receivership or insolvency proceedings against the Borrower, or foreclose on or otherwise enforce realization of the collateral by exercise of a power of sale or by legal proceedings; but the Guarantor, if it be the Holder, after giving notice to the Financing Institution, may take any action specified in this sentence without obtaining the consent of the Financing Institution. If at any time all or any portion of the principal or interest of said obligation is due and unpaid and (a), while the Financing Institution is the Holder, the Guarantor fails to give its written consent within ten (10) days after the Reserve Bank shall have received a written request from the Financing Institution to do so, to the taking of any action specified in the preceding sentence or (b) if the Guarantor be the Holder and does not, within thirty (30) days after the Reserve Bank shall have received a written request from the Financing Institution that the Guarantor take action as aforesaid, take the action requested or one of the other steps specified in the preceding sentence, the guaranteed percentage shall thereupon in either event, effective ten (10) days or thirty (30) days, as the case may be, after the receipt of such request, be 100 per cent.

Section 10. Voluntary Purchase by Guarantor

Whenever the Guarantor elects, it may purchase, and the Financing Institution shall sell to it, the guaranteed percentage of the unpaid principal amount of the obligation, less any amounts which have been previously purchased by the Guarantor under any provision of this agreement and have not been repaid; but no such purchase shall be made except ninety (90) days or more after the original advance on the loan or shall become effective until ten (10) days (or such lesser period as the Guarantor may specify) after the Guarantor shall have sent to the Financing Institution a demand for such purchase by telegram or registered mail. In the event of any purchase under this section, the Guarantor shall, at the request of the Financing Institution, or may, at its own option, immediately become the Holder in the manner provided in section 4 without the written demand therein specified.

Section 11. Reports as to Borrower's Condition

The Holder shall promptly notify the other party of any default in the payment of principal, or of any default which shall continue for ten (10) days in the payment of interest, on the part of the Borrower. As long as the

Financing Institution has any interest in the loan, each party shall notify the other party of any other default on the part of the Borrower in connection with the loan, or of any unfavorable change in the financial condition or in the business of the Borrower or in the collateral for the loan, of which such party has acquired actual knowledge in connection with the administration of said loan and which in its opinion at the time is material. The Financing Institution shall, upon the request of the Reserve Bank, furnish to the Reserve Bank any other information relating to the financial condition of the Borrower and the progress of the loan which it has acquired in connection with the administration of said loan.

Section 12. Fees Payable to Guarantor

The Financing Institution shall pay to the Reserve Bank at the end of each monthly or quarterly period, as fixed by the Reserve Bank, (a) an amount equal to ------ per cent of any interest payable by the Borrower on the average daily amounts of that part of the unpaid principal of the obligation which the Guarantor was obligated during such period to purchase upon demand of the Financing Institution, and also (b) an amount equal to the same per cent of the "guaranteed percentage" of any commitment fee payable by the Borrower to the Financing Institution during such period.

Section 13. Effect of Violation of Agreement

(A) If the Financing Institution shall violate, or fail to comply with, any of the terms of this agreement or any of the terms or conditions of the loan or shall through gross negligence make a material misrepresentation of fact in the application therefor, or in anything constituting a part of the application, it shall become liable to the Guarantor in an amount equal to the damages sustained by the latter by virtue of such violation, failure to comply, or misrepresentation; but the Guarantor shall not be relieved by such violation, failure to comply, or misrepresentation from any of its obligations to the Financing Institution under the terms of this agreement.

(B) In the absence of gross negligence on the part of the Financing Institution:

(1) No invalidity or ineffectiveness of any collateral or of any assignment thereof accepted by the Financing Institution; and

(2) No action or omission to act on the part of the Financing Institution in reliance on a statement or certificate signed by an appropriate officer or member of the Borrower with respect to the financial condition, business or operations of the Borrower or the purpose for which funds of the Borrower have been or are intended to be used;

shall constitute a violation of, or failure to comply with, any of the terms of this agreement or any of the terms or conditions of the loan on the part of the Financing Institution. No invalidity of any provision of the loan agreement (or other similar instrument), if any, referred to herein, arising from statute or decision of any court, shall in any way relieve the Guarantor hereunder.

Section 14. Interpretation of Agreement

(A) This agreement constitutes the entire contract between the Guarantor and the Financing Institution, and no claim of waiver, modification, consent, or acquiescence with respect to any of the provisions of this agreement shall be made against either party except on the basis of a letter or other written instrument executed by or on behalf of such party.

(B) No provision of the loan agreement (or other similar instrument), if any, shall increase, limit or vary the rights or obligations of the Financing Institution, the Guarantor or the Borrower under this agreement.

Section 15. Prohibition Against Assignment

This agreement shall not be assignable by either party, but this shall not prevent the Financing Institution from granting to other financing institutions participations in the obligation, provided, however, that the Guarantor shall recognize and deal only with the Financing Institution.

Section 16. Officials Not to Benefit

No member of or delegate to Congress or resident commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

In witness whereof, the parties have caused this agreement to be executed on their behalf by their duly authorized agents this------ day of ----------, 195---.

(Guarantor)

[SEAL OF FINANCING INSTITUTION]

By FEDERAL RESERVE BANK OF----------
As Fiscal Agent of the United States.

By ---------- ----------
(Name) (Title)

(Financing Institution)

Attest:

---------- ----------
(Name) (Title)

By ---------- ----------
(Name) (Title)

KARL R. BENDETSEN,
The Assistant Secretary of Army.
JOHN F. FLOBERG,
Assistant Secretary of the Navy for Air.
ROSWELL L. GILPATRIC,
Under Secretary of the Air Force.

MARCH 4, 1952.

[F. R. Doc. 52-4518; Filed, Apr. 22, 1952; 8:45 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter A—Aid of Civil Authorities and Public Relations

PART 505—SAFEGUARDING MILITARY INFORMATION

Paragraph (c) of § 505.15 is revoked.

[AR 380-406, 22 Nov. 1950] (R. S. 161; 5 U. S. C. 22)

Subchapter D—Military Reservations and National Cemeteries

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

Section 552.17 is revoked.

[Cir. 35-1950] (R. S. 161; 5 U. S. C. 22)

Subchapter F—Personnel

PART 571—RECRUITING AND ENLISTMENTS

Section 571.10 is revoked.

[Cir. 2—1950] (R. S. 161; 5 U. S. C. 22)

[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 52-4533; Filed, Apr. 22, 1952; 8:45 a. m.]

Chapter XVI—Selective Service System

[Amdt. 38]

PART 1613—REGISTRATION PROCEDURES

ACCOMPLISHMENT OF REGISTRATION

The Selective Service Regulations are hereby amended as follows:

1. Section 1613.15 is amended to read as follows:

§ 1613.15 *Registration certificate.* After the Registration Card (SSS Form No. 1) is completed and signed, the registrar shall prepare, from information taken from the Registration Card (SSS Form No. 1), the Registration Certificate (SSS Form No. 2). The registrar shall never fill out the Registration Certificate (SSS Form No. 2) until after completely finishing the Registration Card (SSS Form No. 1). Except as otherwise provided in § 1613.41, whenever the registration is accomplished at a place other than a local board office the registrar shall deliver or mail the Registration Certificate (SSS Form No. 2) with the Registration Card (SSS Form No. 1) to the local board for which he is a registrar. If the place of residence of the registrant as shown on line 2 of his Registration Card (SSS Form No. 1) is within the area of the local board, or if the local board has jurisdiction of the registrant under paragraph (b) of § 1613.43, the local board shall mail the Registration Certificate (SSS Form No. 2) to the registrant not later than 10 days following the date of registration. If the place of residence of the registrant is not within the area of the local board, the Registration Certificate (SSS Form No. 2) shall be transmitted with the Registration Card (SSS Form No. 1) in the manner provided in § 1613.43 to the local board which has jurisdiction of the registrant. Upon receipt of the Registration Certificate (SSS Form No. 2) and the Registration Card (SSS Form No. 1) the local board having jurisdiction of the registrant shall immediately mail the Registration Certificate (SSS Form No. 2) to the registrant and retain the Registration Card (SSS Form No. 1).

2. Section 1613.40 is amended to read as follows:

§ 1613.40 *Disposition of registration cards and tally sheets.* At the close of each day of registration the chief registrar at each registration place shall deliver or mail the Tally Sheets (SSS Form No. 4) and all completed Registration Cards (SSS Form No. 1) and Registration Certificates (SSS Form No. 2) to the office of the local board.

(Sec. 10, 62 Stat. 618, as amended; 50 U. S. C. App., Sup. 460. E. O. 9979, July 20, 1948, 13 F. R. 4177; 3 CFR, 1948 supp.)

The foregoing amendment to the Selective Service Regulations shall be effective immediately upon the filing hereof with the Division of the Federal Register.

[SEAL] LEWIS B. HERSHEY,
Director of Selective Service.

APRIL 18, 1952.

[F. R. Doc. 52-4567; Filed, Apr. 22, 1952; 8:53 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 34, Supplementary Regulation 15]

CPR 34—SERVICES

SR 15—POWER LAUNDRIES IN MILWAUKEE COUNTY, WISCONSIN

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stablization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 15 to Ceiling Price Regulation 34 is hereby issued.

STATEMENT OF CONSIDERATIONS

This Supplementary Regulation 15 to Ceiling Price Regulation 34 permits a uniform increase in ceiling prices of certain services supplied by power laundries in Milwaukee County, Wisconsin. This supplementary regulation does not permit the increase to be applied to the diaper supply, linen supply and dry cleaning services of such laundries.

There are 22 power laundries providing laundry services in Milwaukee County, Wisconsin. It is estimated that in 1951 total revenue received by these power laundries from sales of their services amounted to 6½ million dollars. A study of the operating costs and profit margins of a representative number of these power laundries, accounting for 85 percent of total sales in this area, reveals that they are suffering an impairment of their pre-Korean earnings as a result of greatly increased labor and material costs, which have been incurred. In addition, a general wage increase recently granted employees of these power laundries has imposed further financial hardship. Failure to make an adjustment in the ceiling prices of these firms would impair their continued operation and would threaten an interruption in the supply of these essential services. The amount granted herein has been deemed the minimum necessary to restore these laundries to a financial position which would assure the continued supply of these essential services, in accordance with the standards for individual adjustments under section 20 (a) of CPR 34.

Under the provisions of this supplementary regulation, ceiling prices of such power laundries may be increased by not more than 5 percent, such adjustment to be applied to the total amount of each invoice rendered to the customer and identified as the "OPS permitted price increase", or, at the option of the individual laundry, the ceiling flat price for each article may be increased by not more than 5 percent. If such increase results in a ceiling price ending in a fraction of a cent, the ceiling price must be decreased to the next lower cent if the fractional cent is one-half (½¢) cent or less, or may be increased to the next higher cent if the fraction is greater than one-half (½¢) cent. Adjusted flat ceiling prices must within ten days after their determination be filed with the appropriate Office of Price Stabilization district office.

In the future, power laundries subject to this supplementary regulation may not obtain an adjustment of their ceiling prices under section 20 of CPR 34. In addition, adjustments previously granted any of them under that section are automatically revoked by this supplementary regulation.

In the formulation of this supplementary regulation, the Director has consulted insofar as practicable with representative suppliers of these services, including representatives of trade associations, and consideration has been given to their recommendations. In the judgment of the Director of Price Stabilization the increases permitted by this supplementary regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

Sec.
1. Purpose.
2. Relationship to Ceiling Price Regulation 34.
3. Ceiling prices.
4. Application of section 20 of Ceiling Price Regulation 34.
5. Definitions.

AUTHORITY: Sections 1 to 5 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR 1950 Sup.

SECTION 1. *Purpose.* This supplementary regulation permits power laundries in Milwaukee County, Wisconsin, to increase the ceiling prices of their power laundry services by 5 percent. This supplementary regulation shall not apply to the diaper supply, linen supply and dry cleaning services of power laundries.

SEC. 2. *Relationship to Ceiling Price Regulation 34.* All provisions of Ceiling Price Regulation 34, as amended, except as affected by the provisions of this supplementary regulation shall remain in effect.

SEC. 3. *Adjustment of ceiling prices.* You may, to the extent you supply power laundry services in Milwaukee County, Wisconsin, increase your ceiling prices by 5 percent for power laundry services, except diaper supply, linen supply and dry cleaning services, thus supplied, by either of the following methods:

(a) You may apply such an adjustment to the total amount of each invoice rendered to the customer, provided you shall clearly stamp or evidence on each such invoice the words "OPS permitted price increase."

(b) You may, in lieu of the method provided in paragraph (a) of this section, increase by 5 percent the flat prices of each power laundry services article, except a diaper supply, linen supply and dry cleaning services article. If you determine your ceiling prices under the provisions of this paragraph and the ceiling prices you so determine result in a fraction of a cent, that fraction must be adjusted upward or downward, as the case may be, to the cent next nearest such fraction. Within ten days after your prices are established under this paragraph, you must prepare and file with your district office of the Office of Price Stabilization a supplemental statement as required under section 18 of Ceiling Price Regulation 34. You may not price under paragraph (a) of this section once you have elected to price under this paragraph.

SEC. 4. *Application of section 20 of Ceiling Price Regulation 34.* No seller subject to this supplementary regulation may, after the effective date of this supplementary regulation, apply for an adjustment of any of his ceiling prices under section 20 of Ceiling Price Regulation 34, as amended. All orders establishing ceiling prices for any power laundry subject to this supplementary regulation issued under either section 20 (a), (b) or (c) of Ceiling Price Regulation 34, as amended, are hereby revoked, upon the effective date of this regulation.

SEC. 5. *Definitions.* (a) "Power laundry" or "power laundries" as used in this regulation are laundries which in the laundry trade are customarily known and designated as such, and do not include hand laundries, launderettes or laundries using home-type laundry equipment to supply laundry services.

Effective date. This Supplementary Regulation 15 to Ceiling Price Regulation 34 shall become effective April 28, 1952.

NOTE: The record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
Director of Price Stabilization.

APRIL 22, 1952.

[F. R. Doc. 52-4641; Filed, Apr. 22, 1952; 11:40 a. m.]

[Ceiling Price Regulation 139]

CPR 139—REBUILT AND USED AUTOMOTIVE PARTS

Pursuant to the Defense Production Act of 1950, as amended (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation 139 is hereby issued.

STATEMENT OF CONSIDERATIONS

This regulation establishes ceiling prices for rebuilt and used automotive parts and engines. Heretofore ceiling prices for these commodities were established by the General Ceiling Price Regulation.

Historically, the price of either a rebuilt or used automotive part has always been related to the price of the part when new, and their prices have paralleled the upward and downward movements of the price of the part when new. So far as rebuilders are concerned, this parallel movement is not only responsive to market pressures (inasmuch as their market is directly limited by the price competition of the original manufacturer) but also serves as an automatic adjustment of price to the cost of re-manufacture,

upon the broad premise that price movements of the original part manufacturer reflect cost changes that affect not only the original manufacturer but must affect the rebuilder. The Director has determined to utilize this historical relationship in a pricing technique for these commodities. He believes that this will result in a regulatory device that has both simplicity and flexibility, which are particularly desirable in an industry characterized by a large number of small producers and sellers.

It should also be stated that the general price freeze arrested the movement of prices in this industry at a point which in some instances distorted the historical relationship, either because of a more accelerated upward movement of prices on rebuilt or used parts than that of the new parts, or a similar movement in the prices of the original parts manufacturers. Thus, the technique of this regulation restores the over-all harmony and, more important, permits rebuilders and sellers of used parts to maintain pace with price changes imposed upon original manufacturers by operation of the regulations of the Office of Price Stabilization.

Accordingly, the ceiling prices for rebuilt or used automotive parts are established at the same percentage of current prices of the new parts as was maintained by the rebuilder or seller of the rebuilt or used part during the pre-Korea period. The rebuilder or used part seller calculates in the manner set forth in the regulation his "price factor" and applies that factor to current original manufacturer's prices.

While the Director feels that the simplicity of this formula will commend itself to the persons subject to this regulation and finds that the prices resulting will be generally fair and equitable, the regulation also permits the rebuilder, as an alternative mode of ceiling price determination, to use the provisions of General Overriding Regulations 20 and 21.

This regulation is divided into several parts to facilitate quick analysis by the various groups of persons subject to the regulation. Article II sets forth the pricing technique for rebuilders. In addition to the general formula set forth, it provides that the exchange allowance customarily used by the rebuilder during the base period should be maintained. It requires the rebuilder, however, to reduce the price of his products if he wishes to reduce his exchange allowance. This flexibility is desirable not only to maintain the steady flow of used parts to the rebuilder but to prevent the rebuilder from being overburdened by unnecessary parts.

Article III of the regulation applies to resellers of rebuilt automotive parts. This regulation establishes ceiling prices for such dealers by use of the same pricing method that is used in Ceiling Price Regulation 67. This method requires that the ceiling price be determined by applying the highest percentage markup realized during the period January 1 to June 24, 1950, to net invoice or delivered cost, depending upon the practice followed in this period by the dealer.

Article IV of the regulation, which applies to sellers of used automotive parts, sets forth the same pricing formula with respect to maintaining historical relationships as was set forth in Article II for rebuilders.

In the formulation of this regulation there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

Every effort has been made to conform this regulation to existing business practices, cost practices or methods, or means or aids to distribution. Insofar as any provisions of this regulation may operate to compel changes in the business practices, cost practices or methods, or means or aids to distribution, such provisions are found by the Director of Price Stabilization to be necessary to prevent circumvention or evasion of this regulation.

In the judgment of the Director of Price Stabilization, the ceiling prices established by this regulation are generally fair and equitable to buyers and sellers alike and are necessary to effectuate the purpose of Title IV of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

ARTICLE I—SCOPE OF REGULATIONS

ARTICLE II—CEILING PRICES FOR REBUILDERS OF AUTOMOTIVE PARTS

ARTICLE III—RESELLERS OF REBUILT AUTOMOTIVE PARTS

ARTICLE IV—SELLERS OF USED AUTOMOTIVE PARTS

ARTICLE V—GENERAL PROVISIONS

AUTHORITY: Sections 1 to 63 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101-2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

ARTICLE I—SCOPE OF REGULATIONS

SECTION 1. *What this regulation does.* This regulation establishes ceiling prices for rebuilt and used automotive parts.

(a) Article I sets forth the transactions which this regulation covers.

(b) Article II describes how rebuilders of automotive parts determine their ceiling prices.

(c) Article III describes how resellers of rebuilt automotive parts determine their ceiling prices.

(d) Article IV describes how sellers of used automotive parts determine their ceiling prices.

(e) Article V contains those provisions of the regulation applicable to all sellers covered by this regulation.

SEC. 2. *Sales covered by this regulation.* This regulation applies to the sale and to the purchase of any used or rebuilt automotive part, in the 48 states of the United States, the District of Columbia, and Hawaii. An explanation of the terms automotive parts, rebuilt automotive parts, and used automotive parts is found in section 63 (*Definitions*). This regulation supersedes all ceiling price regulations previously issued by the Office of Price Stabilization insofar as transactions covered by this regulation are concerned.

ARTICLE II—CEILING PRICES FOR REBUILDERS OF AUTOMOTIVE PARTS

SEC. 20. *General description of the method of determining ceiling prices for rebuilders of automotive parts.* In general, if you are a rebuilder of automotive parts your ceiling price for rebuilt automotive parts will represent the same percentage of the original manufacturer's published retail list price in effect at the time of sale by you that your selling price during the base period bore to the original manufacturer's published retail list price for that part during the base period. (Base period as used in this regulation refers to the period January 1 through June 24, 1950. This term is defined in section 63, *Definitions.*) To ascertain this price you calculate a factor, called in this regulation the "price factor", for each automotive part by dividing your base period price for the automotive part by the original manufacturer's base period published retail list price for the same part and apply this factor to the original manufacturer's

current published retail list price. Instead of determining your ceiling price by means of this factor, however, you have the option of adjusting your base period price under General Overriding Regulation 20 or General Overriding Regulation 21, depending upon which General Overriding Regulation is applicable to you. If you elect to use General Overriding Regulation 20 or 21, however, you may not use this regulation.

SEC. 21. *Rebuilder's base period price.* You find your base period price to your largest buying class of purchasers for any rebuilt automotive part by selecting the first of the following that is available to you.

(a) The highest published list price which you had in effect for your sale of a rebuilt automotive part during the base period, adjusted to reflect all applicable extra charges, discounts, or other allowances to your largest buying class of purchaser last in effect prior to June 24, 1950.

(b) The highest price, as shown by your written records, at which you either contracted to sell the rebuilt automotive part during the base period, or made a written offer to sell the rebuilt automotive part during this period. However, such a written offer may be used only if it was accepted in writing prior to October 1, 1950. This price must be adjusted to reflect all applicable extra charges, discounts, or other allowances to your largest buying class of purchaser last in effect prior to June 24, 1950.

(c) The highest price, as shown by your written records, at which you delivered the rebuilt automotive part during the base period, adjusted to reflect all applicable extra charges, discounts, or other allowances to your largest buying class of purchaser last in effect prior to June 24, 1950.

SEC. 22. *Base period price of the rebuilt automotive part when new.* (a) To determine the base period price of the rebuilt automotive part when new you use the original manufacturer's highest published retail list price for the automotive part in effect during the base period. If no such original manufacturer's published retail list price is available for that period, then you may use Chilton's Motor Age Flat Rate and Service Manual or Motor's Flat Rate Manual in effect during the base period to determine the price of the automotive part when new.

(b) If the original manufacturer did not publish a base period price for the automotive part when new and such price is not available in Chilton's Motor Age Flat Rate and Service Manual or Motors Flat Rate Manual, then you proceed as set forth in paragraph (a) except that you use the base period price of the most similar automotive part of the same type.

(c) If your base period price determined under section 21 includes an excise tax, then you must include the manufacturer's excise tax in determining the base period price of the automotive part when new under this section.

SEC. 23. *Price factor.* You find your "price factor" for the automotive parts that you rebuild by dividing your base period price for the automotive part, as determined under section 21 of this regulation, by the base period price for the automotive part when new as determined under section 22 of this regulation.

SEC. 24. *Ceiling prices.* (a) You find your ceiling price for rebuilt automotive parts by multiplying the original manufacturer's published retail list price of the automotive part in effect at the time of sale by your "price factor". This is your ceiling price for the rebuilt automotive part that you are pricing to your largest buying class of purchaser.

(b) Your ceiling price for the sale of the rebuilt automotive part to your other classes of purchasers to whom you made sales during your base period is determined by applying your price differentials last used during the base period. In the event you made no base period sales to a particular class of purchaser, you apply your customary price differentials in effect during the base period, or, if none, then those last in effect before the base period. If you are selling to an entirely new class of purchaser, you apply for a price to this class of purchaser under section 27 of this regulation. For each class of purchaser you must maintain all delivery terms, cash, trade and volume discounts, allowances, premiums and extras, deductions, guarantees, service terms and other terms and conditions of sale last in effect prior to the end of your base period. An explanation of what is meant by "class of purchasers" is found in section 63.

(c) You may not use an original manufacturer's current price that includes an excise tax if you did not include such manufacturer's excise tax in determining the base period price of the part when new as determined under section 22.

Example: Your base period selling price to your largest class of purchaser for a rebuilt Ford fuel pump (59A–9350) as determined under section 21 was $.95. The price of the part when new as determined under section 22 was $4.96. Dividing your base period price ($.95) by the price of the part when new during the base period ($4.96) gives you a price factor of .1915. The price of a new Ford fuel pump now is $5.15. Your ceiling price for this rebuilt Ford fuel pump to your largest class of purchaser, therefore, is $.99 ($5.15 x .1915).

SEC. 25. *Ceiling price for rebuilt automotive parts for which this is no published price of the part when new.* If you rebuild an automotive part for which the original manufacturer does not publish a retail list price because you have combined components that the original manufacturer does not combine, you determine your ceiling price for the rebuilt part as follows: First you separate the rebuilt part into those components for which the original manufacturer does publish retail list prices. Then you determine your ceiling prices for each of these components in accordance with section 24 and add the ceiling prices for each of the components that comprise the completed part. The total is your ceiling price for the part.

SEC. 26. *Exchange allowance.* To determine your exchange allowance for a used automotive part that you accept as an exchange, or by way of trade-in, you use paragraph (a), if you determined your price factor by using a base period price for the rebuilt part that reflected an allowance for a used part accepted in exchange, or by way of trade-in. You use paragraph (b) if your price factor was determined by using a base period price for the rebuilt part that did not reflect an allowance for a used part accepted as an exchange or by way of trade-in. You use paragraph (c) if you do not have a base period exchange allowance for a part that you desire to accept as an exchange or by way of trade-in. You use paragraph (d) if you wish to reduce your exchange allowance as determined under the provisions of this section.

(a) If you accept a used automotive part as an exchange, or by way of trade-in, in connection with the sale of a rebuilt automotive part, for which you determined your price factor by using a base period price that reflected an allowance for the part accepted as an exchange, or by way of trade-in, you must allow as a minimum the same amount for the exchange part that you allowed during the base period. If you do not accept a used automotive part as an exchange, or by way of trade-in, in connection with the sale of a rebuilt automotive part for which you determined the price factor by using a base period price that reflected an allowance for the part accepted as an exchange, or by way of trade-in, you may add to your ceiling price determined under this regulation an amount that does not exceed the amount that you allowed during the base period for the part accepted as an exchange or by way of trade-in.

(b) If you accept a used automotive part as an exchange, or by way of trade-in, in connection with the sale of a rebuilt automotive part for which your price factor was determined by using a base period price that did not reflect an allowance for a used part accepted as an exchange, or by way of trade-in, you determine your exchange allowance as follows:

(1) Determine the base period price of the rebuilt part when new in accordance with section 22.

(2) Determine the prevailing ceiling price of the rebuilt part when new.

(3) Subtract the price determined under (1) from the price determined under (2).

(4) Divide the amount determined under (3) by the price determined under (1).

(5) Determine your base period exchange allowance, if any, for the part you accepted as an exchange, or by way of trade-in, for the rebuilt part.

(6) Multiply the amount determined under (5) by the percentage determined under (4). Add the result to your base period exchange allowance. This is your minimum exchange allowance for a rebuilt part for which your base period price did not reflect an allowance for a used part accepted as an exchange, or by way of trade-in.

Example: The base period price of a rebuilt part when new was $100. The prevailing ceiling price of the rebuilt part when

new is $110. The dollar and cent increase between the base period price of rebuilt part when new ($100.) and the current ceiling price of the rebuilt part when new ($110.) is $10. Dividing $10. by 100 results in a percentage of 10 percent. Your base period exchange allowance for the part accepted as an exchange, or by way of trade-in, was $10. Your minimum exchange allowance is $11. [Your base period exchange allowance ($10.) plus $1 ($10. × 10%)].

(c) If you did not have a base period exchange allowance for a part that you desire to accept as an exchange or by way of trade-in in connection with the sale of a rebuilt automotive part, you apply to the Office of Price Stabilization for approval of an exchange allowance for such part. In order to obtain this approval of an exchange allowance you must file a report by registered mail, return receipt requested, with the Office of Price Stabilization. The report must be filed with the appropriate District Office of the Office of Price Stabilization before you may use your proposed exchange allowance. This report must state the following:

(1) Name and address of your company.

(2) Description: Name and type of the used part that you are accepting as an exchange for the rebuilt part.

(3) Your proposed exchange allowance for the rebuilt part.

(4) A statement of how you determined your exchange allowance for the used part.

(5) Your ceiling price for that part when rebuilt.

(6) After receipt of this report the Office of Price Stabilization may approve your proposed exchange allowance, disapprove your proposed exchange allowance, establish an exchange allowance by order or request further information. If 15 days after receipt of the required report by the Office of Price Stabilization none of the actions listed have been taken, your proposed exchange allowance shall be deemed to have been established until such time as the Office of Price Stabilization shall notify you that your exchange allowance has been disapproved.

The exchange allowance established in the manner just set forth shall be used in all subsequent transactions where you accept a used part as an exchange or trade-in in connection with the sale of a rebuilt automotive part. However, if the Office of Price Stabilization determines that the use of this exchange allowance does not result in ceiling prices for the rebuilt part in line with ceiling prices otherwise established by this regulation it may disapprove the exchange allowance at any time. This disapproval will not be retroactive to any transactions involving your exchange allowance before the date of such disapproval.

(d) However, you may reduce the exchange allowance as determined in accordance with this section if you reduce the price of the rebuilt automotive part for which you are accepting the used part as an exchange, or by way of trade-in, as determined under this regulation, by the same dollar and cents amount that you reduce your exchange allowance.

SEC. 27. *Rebuilt automotive parts that cannot be priced under section 24 or 25 of this regulation.*—(a) *Reports.* If you are unable to determine a ceiling price for any rebuilt automotive part under section 24 or 25 of this regulation because you do not have written records of your sales during the base period, because you were not in business during that period, or for any other reason that you may present and that is acceptable to the Director, you apply to the Office of Price Stabilization for approval of a "price factor", "exchange allowance" and "price differentials" to use in accordance with section 24. In order to obtain this approval of a "price factor", "exchange allowance" and "price differentials", you must file a report, by registered mail, return receipt requested, with the Office of Price Stabilization. The report must be filed with the appropriate District Office of the Office of Price Stabilization before you sell, offer to sell or deliver the rebuilt automotive part. Appropriate District Office is defined in section 63, *Definitions.* This report must state the following:

(1) Name and address of your company.

(2) Description: Name and type of the rebuilt automotive part for which you seek a "price factor".

(3) The name of the original manufacturer of the part.

(4) The base period price of the original manufacturer for the part.

(5) Your proposed "price factor" and the classes of purchasers for which this factor is to be used.

(6) Your proposed "exchange allowance" for parts accepted as an exchange or trade-in.

(7) Your "price differentials" to your other classes of purchasers.

(8) A statement of how you determined your proposed "price factor", "exchange allowance", and "price differentials".

(9) An explanation of the reasons why you cannot determine a ceiling price for the rebuilt automotive part under section 24 or 25.

(b) *Establishment of price.* (1) After receipt of this report, the Office of Price Stabilization may approve the proposed "price factor", "exchange allowance" and "price differentials", disapprove the proposed "price factor", "exchange allowance" and "price differentials", establish a different "price factor", "exchange allowance" and "price differentials" by order, or request further information. If, thirty days after receipt of the required report by the Office of Price Stabilization, none of the actions just listed has been taken, your proposed "price factor", "exchange allowance" and "price differentials" shall be deemed to have been established until such time as the Office of Price Stabilization shall notify you that your proposals have been disapproved.

(2) The "price factor", "exchange allowance" and "price differentials" established in the manner just set forth shall be used to establish ceiling prices for all subsequent sales and deliveries. However, if the Office of Price Stabilization determines that the use of your "price factor", "exchange allowance" or "price differentials" does not result in ceiling prices in line with ceiling prices otherwise established by this regulation, it may disapprove the "price factor", "exchange allowance" or "price differentials" at any time. This disapproval will not be retroactive as to any deliveries made before the date of such disapproval.

(c) *Interim pricing.* (1) If you have filed the report required by this section for the rebuilt automotive part for which you cannot determine your ceiling price under section 24 or 25 of this regulation, and prior to the effective date of this regulation your ceiling price for the rebuilt automotive part was established under the General Ceiling Price Regulation, you may continue to use your General Ceiling Price Regulation ceiling price, until a date 30 days from the date of the receipt of your required report by the Office of Price Stabilization, or until the effective date of any order establishing your "price factor", "exchange allowance" and "price differentials" for determining your ceiling price under the provisions of this section, whichever date is the earlier.

(2) If you have not established a General Ceiling Price Regulation ceiling price for the rebuilt automotive part you are pricing under this section, you may quote or charge a ceiling price established by using your proposed "price factor", "exchange allowance" and "price differentials" prior to the time when your "price factor", "exchange allowance" and "price differentials" are established under this section. But until a "price factor", "exchange allowance" and "price differentials" are established under this section, not more than 75 percent of your ceiling price determined by the use of such "price factor", "exchange allowance" and "price differentials" may be paid or received.

SEC. 28. *List prices.* If your base period price is expressed as a list price less discount you may express your ceiling price in the same manner. To determine your ceiling list prices under this regulation you adjust your base period list prices in accordance with the pricing provisions of this regulation.

ARTICLE III—RESELLERS OF REBUILT AUTOMOTIVE PARTS

SEC. 30. *General description.* If you are a reseller of rebuilt automotive parts you will determine your ceiling price on the basis of the rebuilder's published list price or on the basis of a customary percentage markup over net invoice cost or delivered cost. These methods are covered in sections 31 and 32 of this regulation. In the event that you are unable to use any of these methods for determining a ceiling price, you may apply to the Office of Price Stabilization for a price determining method under section 34.

SEC. 31. *Where the rebuilt automotive part was sold on the basis of the rebuilder's published list price*—(a) *Applicability.* This section is applicable to you only if the following conditions are met:

(1) The rebuilder must have issued a published price list for the automotive part.

(2) You must be able to show from your written records, that during the base period (See *Definitions*, section 63) you determined your selling prices for that rebuilt automotive part, or a part of the same type, by selling it at the rebuilder's published list price, by deducting discounts or other allowances from the rebuilder's published list price, or by adding a percentage markup to the rebuilder's published list price. Of course, this section is also applicable to you if you added to the prices, determined in the manner just set forth, charges for credit, transportation costs, telephone, telegraph, express, parcel post or air freight.

(3) The rebuilder's published list price for the automotive part in effect at the time of sale must not exceed his ceiling list price determined under the provisions of this regulation. If the rebuilder notified you, in writing, that his published list price for a part does not exceed that determined under the provisions of this regulation, and you have no reason to doubt the validity of this statement, you may rely on this notification. A statement that "the prices in this list do not exceed those determined under Ceiling Price Regulation 139" will be acceptable.

(b) *Ceiling price.* Under this section your ceiling price for a rebuilt automotive part is determined as follows: If your written records show that during the base period you sold the same rebuilt automotive part, or a rebuilt automotive part of the same type to a purchaser of the same class, at the rebuilder's published list price, your ceiling price for the sale of that rebuilt automotive part, or a rebuilt automotive part of the same type, to a purchaser of the same class, is the rebuilder's published list price in effect at the time of sale. If your written records show that during the base period you sold the same rebuilt automotive part, or a rebuilt automotive part of the same type, at a price determined by deducting discounts or other allowances from the rebuilder's published list price, you find your ceiling price for the same rebuilt automotive part, or a rebuilt automotive part of the same type, by deducting from the rebuilder's published price in effect at the time of sale the discounts, allowances and any other deduction which you used (as shown by your written records), during the base period for the sale of the rebuilt automotive part, or rebuilt automotive part of the same type, to a purchaser of the same class. If during the base period you sold the rebuilt automotive part, or rebuilt automotive part of the same type, at a price determined by applying a percentage markup to the rebuilder's published list price, you determine your ceiling price by applying to the rebuilder's published list price in effect at the time of sale the highest percentage mark-up which you realized (as shown by your written records) during the base period for the sale of the rebuilt automotive part, or a rebuilt automotive part of the same type, to a purchaser of the same class. An explanation of the terms "purchaser of the same class" and "automotive part of the same type" is contained in section 63 (*Definitions*). Section 55 (*Terms and conditions of sale*) explains the manner in which additions, if any, may be made to those prices for credit charges, transportation costs, and telephone, telegraph, express, parcel post or air freight charges.

SEC. 32. *Rebuilt automotive parts not priced by the use of the rebuilder's published list price.* This section is applicable to rebuilt automotive parts for which the rebuilder has not issued a published list price in accordance with section 28. Also, you use this section and not section 31 if, during the base period the rebuilder had a published list price for the rebuilt automotive part you are pricing, or rebuilt automotive part of the same type and you did not determine your selling prices for those rebuilt automotive parts on the basis of the rebuilder's published list price. You determine your ceiling price for a rebuilt automotive part covered by this section by multiplying your cost of the rebuilt automotive part, determined under paragraph (a) of this section, by your percentage markup determined under paragraphs (b) or (c) of this section. You use paragraph (b) to determine your percentage markup, if, during the base period you determined your selling price for the rebuilt automotive part you are pricing, or rebuilt automotive part of the same type, by applying a percentage markup to the net invoice cost of the rebuilt automotive part to you. You use paragraph (c) to determine your percentage markup, if, during the base period you determined your selling price for the rebuilt automotive part you are pricing, or rebuilt automotive part of the same type, by applying a percentage markup to your delivered cost. An explanation of the terms "net invoice cost" and "delivered cost" is contained in section 63 (*Definitions*). You may use this section only if you have written records of your sales and purchases of the rebuilt automotive part you are pricing, or a rebuilt automotive part of the same type, during the base period.

(a) *Cost of the automotive part.* The cost of the rebuilt automotive part that you must use in determining your ceiling price is your most recent net invoice cost or your most recent delivered cost (depending upon whether during the base period you applied your percentage markup to net invoice cost or delivered cost) not in excess of the applicable ceiling price for the part. For the purposes of this section, if you receive a written statement from your supplier that the price charged you does not exceed the applicable ceiling price, and you have no reason to doubt the validity of this statement, the price certified by your supplier, shall be deemed not to be in excess of the ceiling price. The net invoice or delivered cost you use must be the cost of the commodity being priced when purchased from your normal source of supply or source of supply on the same distributive level. If you change your source of supply for any rebuilt automotive part you must determine your ceiling price for the part under section 34.

(b) *Percentage markup over net invoice cost.* If, during the base period you determined your selling price for the rebuilt automotive part or rebuilt automotive part of the same type, by applying a percentage markup to net invoice cost, you use the first of the following, which is available from your written records with respect to the part you are pricing: (If you are selling to an entirely new class of purchaser, you must determine your ceiling price under section 34 for that class of purchaser.)

(1) The highest percentage markup over net invoice cost that you realized during the base period on a sale of the same rebuilt automotive part to a purchaser of the same class.

(2) The highest percentage markup over net invoice cost that you realized during the base period on a sale of the most similar rebuilt automotive part of the same type to a purchaser of the same class.

(3) The highest percentage markup over net invoice cost that you realized during the base period on a sale of the same rebuilt automotive part to a purchaser of a different class, adjusted to reflect the differential between the two classes of purchasers which you last had in effect during the base period, or, if none, then the differential last in effect before January 1, 1950.

(4) The highest percentage markup over net invoice cost that you realized during the base period on a sale of the most similar rebuilt automotive part of the same type to a purchaser of a different class, adjusted to reflect the differential between the two classes of purchasers which you last had in effect during the base period, or, if none, then the differential last in effect before January 1, 1950.

(c) *Percentage markup over delivered cost.* If, during the base period you determined your selling price for the rebuilt automotive part, or a rebuilt automotive part of the same type, by applying a percentage markup to delivered cost, you determine your ceiling price by applying a percentage markup to delivered cost. In such case, you determine your ceiling price in accordance with the provisions of paragraph (b) of this section, except that you substitute the phrase "delivered cost" for the phrase "net invoice cost", wherever the phrase "net invoice cost" appears in paragraph (b) of this section.

SEC. 33. *Exchange allowance.* (a) If you accept a used automotive part as an exchange, or by way of trade-in, in connection with the sale of a rebuilt automotive part, you must allow an amount no less than the amount you allowed for the exchange part during the base period. If you do not have a base period exchange allowance for a part that you desire to accept as an exchange or by way of trade-in you must apply for an exchange allowance under section 26 (c).

(b) However, you may reduce the exchange allowance as determined in accordance with this section if you reduce the price of the rebuilt automotive part for which you are accepting the used part as an exchange, or by way of trade-in, as determined under this regu-

lation by the same dollar and cents amount that you reduce your exchange allowance.

SEC. 34. *Rebuilt automotive parts that cannot be priced under section 31 or 32 of this regulation*—(a) *Reports.* If you do not have written records of your sales or purchases during the base period, or if you were not in business during that period, you cannot determine your ceiling price under section 31 or 32 of this regulation. When you are unable to determine your ceiling price for any commodity under section 31 or 32 because of these reasons or because of any other reason, that you may present and that is acceptable to the Director, you must obtain authorization in writing from the Director of Price Stabilization to use a price determining method which you will propose and the use of which will result in a price in line with ceiling prices otherwise established by this regulation. The method may be a method of establishing your ceiling prices that is similar to the methods described in section 31 or 32; that is, you may propose to sell at prices in the rebuilder's published price list or you may propose that you will sell at a markup over either net invoice cost or delivered cost, or your proposed method may be a combination of the use of rebuilder's price list and a markup. In order to obtain this authorization by the Director of Price Stabilization, you must file a report, by registered mail, return receipt requested, with the Office of Price Stabilization. This report must be filed with the appropriate District Office of the Office of Price Stabilization before you sell, offer to sell, or deliver the commodity. The report shall state the following:

(1) Name and address of your company.

(2) Description: Name and type of the automotive part for which you seek a price determining method.

(3) Your net invoice or delivered cost of the automotive part.

(4) The rebuilder's list price, if any, for the part.

(5) Your proposed price determining method and the classes of purchasers to which ceiling prices determined by this method are to apply.

(6) A statement of how you determined your proposed price determining method.

(7) An explanation of the reasons why you cannot determine the ceiling price for the automotive part under section 31 or 32 of this regulation.

(b) *Establishment of ceiling prices.* (1) After receipt of this report, the Office of Price Stabilization may approve the proposed price determining method, disapprove the proposed price determining method, establish a different price determining method, by order, or request further information. If, thirty days after the receipt of the required report by the Office of Price Stabilization, none of the actions just listed has been taken, you may use your proposed price determining method until such time as the Office of Price Stabilization notifies you that this method has been disapproved.

(2) The price determining method established in the manner just set forth shall be used to establish ceiling prices for all subsequent sales and deliveries. However, if the Office of Price Stabilization finds that ceiling prices determined in accordance with this method are not in line with ceiling prices established by this regulation, it may disapprove the method at any time. This disapproval will not be retroactive as to any deliveries made before the date of such disapproval.

(c) *Interim pricing.* (1) If you file a report required by this section for a rebuilt automotive part for which you cannot determine your ceiling price under section 31 or 32 of this regulation and, if prior to the effective date of this regulation your ceiling price for this rebuilt automotive part was established under the General Ceiling Price Regulation, you may continue to use your General Ceiling Price Regulation ceiling price until a date thirty days from the date of receipt of your required report by the Office of Price Stabilization, or until the effective date of any order establishing your ceiling prices under the provisions of this section, whichever date is earlier.

(2) However, if you have not established a General Ceiling Price Regulation ceiling price for the automotive part you are pricing under this section, you may quote or charge your proposed ceiling price prior to the time when your ceiling price determining method is established under this section. But, until a ceiling price determining method has been established under this section not more than 75 percent of your ceiling price computed by your proposed method may be paid or received.

ARTICLE IV—SELLERS OF USED AUTOMOTIVE PARTS

SEC. 40. *General description of the method of determining ceiling prices for sellers of used automotive parts.* In general, if you are a seller of used automotive parts your ceiling price for used automotive parts will represent the same percentage of the original manufacturer's published retail list price in effect at the time of sale by you that your selling price during the base period bore to the original manufacturer's published retail list price in effect during the base period. (Base period as used in this regulation refers to the period January 1 through June 24, 1950. This term is defined in section 63, *Definitions.*) To ascertain this price you calculate a factor (called in this regulation the "price factor") for each automotive part by dividing your base period price for the automotive part by the original manufacturer's base period published retail list price for the same part and you apply this factor to the original manufacturer's current published retail list price.

SEC. 41. *Base period price for sellers of used automotive parts.* You find your base period price to your largest buying class of purchaser for any used automotive part by selecting the first of the following, which is available to you:

(a) The highest published list price which you had in effect for your sale of a used automotive part during the base period, adjusted to reflect all applicable extra charges, discounts, or other allowances to your largest buying class of purchaser last in effect prior to June 24, 1950.

(b) The highest price, as shown by your written records, at which you either contracted to sell the used automotive part during the base period, or made a written offer to sell the used automotive part during this period. However, such a written offer may be used only if it was accepted in writing prior to October 1, 1950. This price must be adjusted to reflect all applicable extra charges, discounts, or other allowances to your largest buying class of purchaser last in effect prior to June 24, 1950.

(c) The highest price, as shown by your written records, at which you delivered the used automotive part during the base period, adjusted to reflect all applicable extra charges, discounts, or other allowances to your largest buying class of purchaser last in effect prior to June 24, 1950.

SEC. 42. *Base period price of the used automotive part when new.* (a) To determine the base period price of the used automotive part when new you use the original manufacturer's highest published retail list price for the part in effect during the base period. If no such original manufacturer's published retail list price is available for that period, then you may use Chilton's Motor Age Flat Rate and Service Manual or Motors Flat Rate Manual in effect during the base period to determine the price of the part when new.

(b) If the original manufacturer did not publish a base period price for the part when new and such price is not available in Chilton's Motor Age Flat Rate and Service Manual or Motors Flat Rate Manual, then you proceed as set forth in paragraph (a) except that you use the base period price of the most similar automotive part of the same type.

(c) If your base period price determined under section 41 includes an excise tax then you must include the manufacturer's excise tax in determining the base period price of the part when new under this section.

SEC. 43. *Price factor.* You find your "price factor" for the used automotive part that you sell by dividing your base period price for the automotive part as determined under section 41 of this regulation, by the price for the automotive part when new as determined under section 42 of this regulation.

SEC. 44. *Ceiling price.* (a) You find your ceiling price for a used automotive part by multiplying the original manufacturer's published retail list price of the automotive part in effect at the time of sale by your "price factor". This is your ceiling price for the used automotive part that you are pricing to your largest buying class of purchaser.

(b) Your ceiling price for the sale of the used automotive part to your other classes of purchasers to whom you made sales during the base period is determined by applying your price differentials last used during your base period. In the event you made no base period

sales to a particular class of purchaser, you apply your customary differentials in effect during the base period, or if you had none in effect during the base period, then those last in effect before your base period. If you are selling to an entirely new class of purchaser, you apply for a ceiling price to this class of purchaser under section 46 of this regulation. For each class of purchaser you must maintain all delivery terms, cash, trade and volume discounts, allowances, premiums, and extras, deductions, guarantees, service terms and other terms and conditions of sale last in effect prior to the end of your base period. An explanation of what is meant by "class of purchaser" is found in section 63.

(c) You may not use an original manufacturer's current price that includes an excise tax if you did not include such manufacturer's excise tax in determining the base period price of the part when new as determined under section 42.

SEC. 45. *Ceiling price for used automotive parts for which there is no published price of the part when new.* If you sell a used automotive part for which the original manufacturer does not publish a retail list price because the used automotive part is a combination of components that the original manufacturer does not combine, you determine your ceiling price for the used automotive part as follows: First, you separate the used part into those components for which the original manufacturer does publish retail list prices. Then you determine your ceiling price for each of these components in accordance with section 44 and add the ceiling price for each of the components that comprise the completed part. The total is your ceiling price for the part.

SEC. 46. *Used automotive parts that cannot be priced under section 44 or 45 of this regulation*—(a) *Report.* If you are unable to determine a ceiling price for any used automotive part under section 44 or 45 of this regulation because you do not have written records of your sales or purchases during the base period, because you were not in business during that period or for any other reason that you may present and that is acceptable to the Director, you apply to the Office of Price Stabilization for a "price factor" and "price differentials" to use in accordance with section 44. In order to obtain this approval of a "price factor" and "price differentials", you must file a report, by registered mail, return receipt requested, with the Office of Price Stabilization. The report must be filed with the appropriate District Office of the Office of Price Stabilization before you sell, offer to sell or deliver the automotive part. (Appropriate District Office is defined in section 63, *Definitions*). This report shall state the following:

(1) The name and address of your company.

(2) Description: Name and type of the used automotive part for which you seek a "price factor."

(3) Your proposed "price factor" and the classes of purchasers for which this factor is to be used.

(4) Your "price differentials" to your other classes of purchasers.

(5) A statement of the basis on which your proposed "price factor" and "price differentials" were determined.

(6) An explanation of the reasons why you cannot determine a ceiling price for the used automotive part under section 44 or 45 of this regulation.

(b) *Establishment of ceiling price.* (1) After receipt of this report, the Office of Price Stabilization may approve the proposed "price factor" and "price differentials", disapprove the proposed "price factor" and "price differentials", establish a different "price factor" and "price differentials" by order, or request further information. If thirty days after receipt of the required report by the Office of Price Stabilization, none of the actions just listed has been taken, your proposed "price factor" and "price differentials" shall be deemed to have been established until such time as the Office of Price Stabilization shall notify you that your proposals have been disapproved.

(2) The "price factor" and "price differentials" established in the manner just set forth shall be used to establish ceiling prices for all subsequent sales and deliveries. However, if the Office of Price Stabilization determines that the use of your "price factor" and "price differentials" does not result in ceiling prices in line with ceiling prices established by this regulation, it may disapprove the "price factor" and "price differentials" at any time. This disapproval will not be retroactive as to any deliveries made before the date of such disapproval.

(c) *Interim pricing.* (1) If you filed the report required by this section for the used automotive part for which you cannot determine your ceiling price under section 44 or 45 of this regulation and prior to the effective date of this regulation your ceiling price for the part was established under the General Ceiling Price Regulation, you may continue to use your General Ceiling Price Regulation ceiling price until a date thirty days from the date of the receipt of your required report by the Office of Price Stabilization, or until the effective date of any order establishing your "price factor" and "price differentials" for determining your ceiling price under the provisions of this section, whichever date is the earlier.

(2) If you have not established a General Ceiling Price Regulation ceiling price for the used automotive part you are pricing under this section, you may quote or charge a ceiling price established by using your proposed "price factor" and "price differentials" prior to the time when your "price factor" and "price differentials" are established under this section. But until a "price factor" and "price differentials" have been established under this section not more than 75 percent of your proposed ceiling price determined by the use of such "price factor" and "price differentials" may be paid or received.

ARTICLE V—GENERAL PROVISIONS

SEC. 50. *Petitions for amendment.* If you wish to have this regulation amended, you may file a petition for amendment in accordance with the provisions of Price Procedural Regulation 1, Revised.

SEC. 51. *Adjustable pricing.* Nothing in this regulation prohibits you from making a contract or offer to sell at (a) the ceiling price in effect at the time of delivery, or (b) the lower of a fixed price or the ceiling price in effect at the time of delivery. You may not, however, deliver or agree to deliver at a price to be adjusted upward in accordance with any increase in ceiling prices after delivery.

SEC. 52. *Taxes*—(a) *Federal excise tax.* If you are a rebuilder of used automotive parts you may charge in addition to your ceiling price the amount of any Federal manufacturer's excise tax imposed upon and paid by you. In the case of any increase in such taxes after the effective date of this regulation you may add the increase to your tax charge. In the case of any decrease of any such tax you must deduct the amount of the decrease in your tax charge. In every case you must separately state any tax charges that you make.

(b) *Taxes other than excise tax.* You may add to your ceiling price of any rebuilt or used automotive part any tax imposed upon you and that the tax law does not prohibit you from passing on to your customer. If there is an increase in any such tax after the effective date of this regulation, you may reflect this increase in your tax charge. You must reflect any decrease in any such tax in your tax charge. You may add such tax to the ceiling price only if you separately state the tax that you are passing on.

SEC. 53. *Transfer of business.* If the business, assets or stock in trade of any business are sold or otherwise transferred after the issue date of this regulation, and the transferee carries on the business, or continues to deal in the same type of commodities in an establishment separate from any other establishment previously owned or operated by him, the ceiling prices of the transferee shall be the same as those to which his transferor would have been subject if no such transfer had taken place, and his obligation to keep records sufficient to verify such prices shall be the same. The transferor shall either preserve and make available, or turn over, to the transferee all records of transactions prior to the transfer which are necessary to enable the transferee to comply with the record provisions of this regulation.

SEC. 54. *Records.* (a) The provisions of the General Ceiling Price Regulation are hereby continued in effect insofar as they apply to the preparation and preservation of such "current records" as you were required to make as a result of sales between January 26, 1951 and the effective date of this regulation.

(b) You shall prepare and preserve for inspection by the Director of Price Stabilization for the life of the Defense Production Act of 1950, as amended, and for two years thereafter all records that indicate clearly the basis upon which you have determined the ceiling price.

(c) You shall preserve for inspection by the Director of Price Stabilization for

the life of the Defense Production Act of 1950, as amended, and for two years thereafter all records showing the prices at which sales of commodities subject to this regulation have been made.

SEC. 55. *Terms and conditions of sale.* You may add to your ceiling prices only those charges or costs listed below. These charges or costs may be added if you are able to show from your written records that during the base period you charged the same class of purchaser extra for the particular charge or cost which you wish to add, and you separately state on your invoice each particular charge or cost listed below:

(a) *Credit charges.* You must figure charges for credit by using the same rates that you last used during the base period for extension of credit involving the same amount and terms.

(b) *Transportation costs.* You may not require any purchaser to pay a larger proportion of transportation costs incurred in the delivery or supply of any automotive part than you last required a purchaser of the same class to pay, during the base period on deliveries or supplies of the same or similar type of automotive part.

(c) *Telephone, telegraph, express, parcel post or air freight charges.* You may add to your ceiling price your actual cost for any long distance telephone calls, telegrams, or express, parcel post or air freight charges, where you incur such expenses, at the request of the purchaser, in order to expedite a particular order.

SEC. 56. *Invoices.* You must furnish every purchaser to whom you make a sale of an automotive part covered by this regulation, an invoice or a sales slip showing the following: (However, you need not furnish an invoice for any sale that amounts to less than $5.00 unless requested by the buyer.)

(a) Your name and address.

(b) The date of sale.

(c) An identification of each automotive part sold, including its brand or trade name.

(d) The quantity of each automotive part sold.

(e) The selling price of each automotive part sold.

SEC. 57. *Interpretations.* If you want an official interpretation of this regulation, you should write to the District Office. Any action taken by you in reliance upon and in conformity with a written official interpretation will constitute action in good faith pursuant to this regulation. Further information on obtaining official interpretations is contained in Price Procedural Regulation 1, Revised.

SEC. 58. *Supplementary regulations.* The Director of Price Stabilization may issue supplementary regulations modifying or supplementing this regulation as he deems appropriate.

SEC. 59. *Prohibitions.* You shall not do any act prohibited or omit to do any act required by this regulation, nor shall you offer, solicit, attempt, or agree to do or omit to do any such acts. Specifically (but not in limitation of the above), you shall not, regardless of any contract or other obligation, sell, and no person in the regular course of trade or business shall buy from you at a price higher than the ceiling price established by this regulation, and you shall make and preserve true and accurate records and reports, required by this regulation. If you violate any provisions of this regulation, you are subject to criminal penalties, enforcement action, and action for damages.

SEC. 60. *Evasions.* (a) Any means or device which results in obtaining indirectly a higher price than is permitted by this regulation or in concealing or falsely representing information as to which this regulation requires records to be kept is a violation of this regulation. This prohibition includes, but is not limited to, means or devices making use of commissions, services, cross sales, transportation arrangements, premiums, discounts, special privileges, up-grading, tie-in agreements and trade understandings, as well as the omission from records of true data and the inclusion in records of false data.

(b) The following are specifically, but not exclusively, among the means and devices prohibited by paragraph (a) of this section and are itemized here only to lessen the frequency of interpretative inquiries which experience indicates are likely to be made in this industry under the general evasion provisions:

(1) Paying, or requiring the payment of, a purchase commission, if the sum of the commission paid by the buyer and the purchase price exceeds the ceiling price.

(2) Entering into a joint venture with any other person subject to this regulation for cross-selling, cross-purchasing or cross-servicing.

(3) Requiring a purchaser to buy any commodity or service as the condition of the sale of a commodity covered by this regulation.

(4) Reducing the period of any guaranty or warranty of performance in effect during the period January 1 through June 24, 1950.

(5) Eliminating or reducing any delivery, maintenance, repair, replacement, or installation service in effect during the base period.

(6) Eliminating or reducing rental or trade-in credits on purchases.

SEC. 61. *Charges lower than ceiling prices.* Lower prices than those established under this regulation may be charged, demanded, paid or offered.

SEC. 62. *Violation*—(a) *Civil and criminal action.* Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions and suits for treble damages provided for by the Defense Production Act of 1950, as amended.

(b) *Record-keeping and filing violations.* If any person subject to this regulation fails to keep the records or file the reports required by this regulation, or if any person subject to this regulation fails to establish a ceiling price or apply to the Office of Price Stabilization for the establishment of a ceiling price, if he is required to do so, the Director of Price Stabilization may issue an order fixing ceiling prices for the commodities such person sells. Any ceiling price fixed in this manner will be in line with the ceiling prices established by this regulation. The order fixing the ceiling price may apply to all deliveries or transfers for which a ceiling price was not established in accordance with the provisions of this regulation, including deliveries or transfers completed prior to the date of issuance of the order. The issuance of such an order will not relieve the seller of his obligation to comply with the requirements of this regulation or of the various penalties for failure to do so.

SEC. 63. *Definitions*—(a) *Appropriate OPS office.* This term means the District Office of the Office of Price Stabilization for the District where your home office or principal place of business is located.

(b) *Automotive parts.* This term means all engine parts, body parts, chassis parts, motors, electric equipment and wheels, and all other component parts and sub-assemblies, of automobiles, trucks, busses, trailers or semi-trailers and all accessories and optional, extra and special equipment designed for use on, or with, such motor vehicles, and unfinished parts and components thereof, when in such form as to permit their use only as automotive parts, but does not mean any service or maintenance accessories, such as anti-freeze, body polish, tools, etc., or tires, tubes, sheet or non-processed glass.

(c) *Base period.* This term means the period January 1, 1950 through June 24, 1950.

(d) *Class of purchaser or purchaser of the same class.* Class of purchaser is determined in the first instance by reference to your own practice of setting different prices for sales to different purchasers or groups of purchasers or for sales under different conditions of sale. The practice may (but need not) be based on the characteristics or distributive level of the buyer (for instance, manufacturer, wholesaler, individual retail store, retail chain, mail order house, government agency, public institution). It may (but need not) be based on the location of the purchaser, the quantity purchased by him or whether the buyer purchased for cash or on credit. If you have followed the practice of giving an individual customer a price differing from that charged others, that customer is a separate class of purchaser. If in your industry, a practice prevails of charging different prices for sales to groups of buyers based on their characteristics or distributive level, any such group to whom you did not make sales during the base period, and for whom you did not have a customary differential in effect during or before this period, is a separate class of purchaser as to you.

(e) *Delivered.* An automotive part shall be deemed to have been delivered if it was received by the purchaser or by any carrier, including a carrier owned or controlled by the seller, for shipment to the purchaser.

(f) *Delivered cost.* This term means the net invoice cost of the automotive part to you, plus any separately stated charges for inbound transportation costs for the commodity which are paid by you. If, during the base period you had in effect a method of averaging transportation costs, you shall continue to

use that method of averaging transportation costs.

(g) *Original manufacturer.* This term means the vehicle or vehicles parts manufacturer who produces the new automotive part.

(h) *OPS.* This term means the Office of Price Stabilization, the Director of Price Stabilization or any other official of the Office of Price Stabilization to whom the Director of Price Stabilization has delegated authority.

(i) *Part of the same type.* This term refers to a part which is one of a group of closely related parts which are normally classed together in your industry, for pricing purposes. A part of the same type may differ in such respects as model, size, or brand or trade name. However, any part which you sell under your own brand or trade name is a separate type of part.

(j) *Published list price.* This term means the price of an automotive part which appears in price sheets, books or catalogues where such price is actually used by the manufacturer, rebuilder or reseller of the part to determine the price of the part by selling at such published price or by the application of discounts or markups to such published prices.

(k) *Rebuilt automotive part.* This term means an automotive part which has been previously used, in which all defective, worn or missing components needing replacement or repair for satisfactory operation have been replaced or repaired.

(l) *Rebuilder.* This term means any person who is engaged in the rebuilding of used automotive parts for sale for his own account.

(m) *Used automotive parts.* This term means an automotive part that has been used and not rebuilt.

(n) *Net invoice cost.* This term refers to your invoice cost, less any trade discount or allowances you took or could have taken. It does not include separately stated charges, such as freight, taxes, etc., except that the manufacturer's excise tax may be included.

(o) *You.* "You" means the person subject to this regulation. "Your" and "yours" are to be construed accordingly.

Effective date. This regulation shall become effective April 28, 1952.

NOTE: The record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
Director of Price Stabilization.

APRIL 22, 1952.

[F. R. Doc. 52-4643; Filed, Apr. 22, 1952; 4:00 p. m.]

[General Ceiling Price Regulation, Supplementary Regulation 99]

GCPR, SR 99—ADJUSTED CEILING PRICES FOR MANUFACTURERS OF CERTAIN GLASS CONTAINERS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Supplementary Regulation 99 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

This regulation provides a uniform industry adjustment of 4 percent over GCPR ceilings for manufacturers of glass containers.

The glass container industry is composed of 33 firms operating 110 plants. All but five of these firms are engaged exclusively in the manufacture of glass containers.

In the latter part of 1951, the industry requested ceiling price adjustments to reflect cost increases. Earnings data subsequently submitted by the industry for the months of October, November and December 1951, and January 1952, show that the industry's earnings have declined very substantially owing to a reduction in the demand for glass containers and rising costs of raw materials. Production estimates for 1952 indicate that no reversal of present earnings trends is likely and that some increase in ceiling prices is required to satisfy the industry earnings standard. Currently available earnings data, however, do not constitute an adequate basis for measuring precisely the amount of price increase required under the earnings standard.

Under these circumstances, and as an interim action, the agency is authorizing a uniform price adjustment factor for the industry on the basis of average changes in costs up to July 26, 1951, in keeping with the general principles of the so-called Capehart Amendment. If a more exact determination of the ceiling price increase required under the industry earnings standard is necessary, a more complete and accurate industry earnings study will be made.

In the formulation of this regulation there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations. The action taken is in substantial conformance with the recommendations of the glass container Industry Advisory Committee.

In the opinion of the Director of Price Stabilization, the provisions of this regulation are generally fair and equitable, and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Coverage.
3. Adjusted ceiling prices.
4. Prescription ware manufacturers.
5. Relation to General Overriding Regulations 20 and 21.

AUTHORITY: Sections 1 to 5 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101-2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This supplementary regulation establishes adjusted ceiling prices for sales by manufacturers of glass containers, as defined in section 2. Such manufacturers are currently subject to the General Ceiling Price Regulation (GCPR). The method provided is to apply to the GCPR ceiling prices of the industry a uniform adjustment ratio.

SEC. 2. *Coverage*—(a) *Persons covered.* This supplementary regulation applies to you if you manufacture and sell the commodities described in paragraph (b) of this section. Except to the extent that they are inconsistent with the provisions of this supplementary regulation, all provisions of the GCPR shall continue to be applicable to you.

(b) *Commodities covered.* This supplementary regulation covers sales by manufacturers of the following:

(1) New empty glass containers manufactured for use in the commercial packing, packaging, bottling or similar accommodation of products such as, but not limited to, foods, drugs, household and industrial products, chemicals, toiletries and cosmetics, and alcoholic and non-alcoholic beverages;

(2) New empty glass containers manufactured for use in home canning;

(3) Glass prescription ware as defined in Supplementary Regulation 88 to the General Ceiling Price Regulation.

SEC. 3. *Adjusted ceiling prices*—(a) *How to compute.* Subject to the provisions of section 4 of this regulation, your ceiling price for the sale of any commodity manufactured by you and covered by this supplementary regulation is your ceiling price in effect under the GCPR increased by 4 percent (i. e., 104 percent of your GCPR ceiling price).

(b) *Rounding ceiling prices.* You may round your ceiling prices per unit determined under this section so that they will be expressed to the nearest cent. For example, if your ceiling price for one gross of commodity A is $1.636, you may round that ceiling price to $1.64. However, if your ceiling price for one gross of commodity B is $1.343 you must round its ceiling price to $1.34. In no event may the increase be greater than 1 percent of your ceiling price prior to rounding.

(c) *Terms and conditions of sale.* Your ceiling prices under this supplementary regulation must be consistent in all respects with your GCPR ceiling prices; that is, they must carry all customary delivery terms, cash, trade and volume discounts, allowances, premiums and extras, deductions, guarantees and other terms and conditions of sale.

SEC. 4. *Prescription ware manufacturers.* If you are a manufacturer of glass prescription ware, as defined in Supplementary Regulation 88 (SR 88) to the GCPR, your GCPR ceiling prices for such commodities shall, for the purposes of this regulation, be deemed to be your GCPR ceiling prices as adjusted under SR 88 to the GCPR. In other words, if pursuant to SR 88 to the GCPR, you adjusted your GCPR ceiling prices to bring them in line with the GCPR ceiling prices prevailing in the industry, you will apply the 4 percent adjustment ratio provided by this supplementary regulation to such in-line adjusted ceiling prices which you computed by applying SR 88.

SEC. 5. *Relation to General Overriding Regulations* 20, 21. Notwithstanding any provision of this supplementary regulation you may elect to apply the provisions of General Overriding Regulation 20 or 21 (GOR 20 or GOR 21) to establish your ceiling prices. If you do so elect, you may not use the provisions of this supplementary regulation.

Effective date. This supplementary regulation shall become effective April 28, 1952.

ELLIS ARNALL,
Director of Price Stabilization.

APRIL 22, 1952.

[F. R. Doc. 52-4642; Filed, Apr. 22, 1952; 4:00 p. m.]

Chapter VIII—Defense Transport Administration

[Administrative Order DTA 3]

DTA 3—APPOINTMENT AND OPERATION OF INDUSTRY ADVISORY COMMITTEES

Pursuant to the Defense Production Act of 1950, as amended, Executive Orders 10161, 10200, and 10219, Organization Order DTA 1, as amended (15 F. R. 6728; 16 F. R. 1677), and Defense Production Administration Delegation 1, as amended (16 F. R. 11245), the following regulations are prescribed for the appointment and the operation of industry advisory committees:

Sec.
1. Purpose.
2. Policies and legal requirements.
3. Membership.
4. Subcommittees and Task Groups.
5. Establishment of committees.
6. Changes in membership.
7. Security clearances.
8. Notice of committee meetings.
9. Rules governing committee meetings.
10. Compensation and expenses.
11. Report of committee meetings.
12. Terminating committees.
13. Revocation.

AUTHORITY: Sections 1 to 13 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR 1950 Supp.; E. O. 10200, Jan. 3, 1951, 16 F. R. 61; E. O. 10219, Feb. 28, 1951, 16 F. R. 1983.

SECTION 1. *Purpose.* This Administrative Order DTA 3 is issued for the purpose of outlining the policies and procedures adopted by the Defense Transport Administration in the appointment and operation of industry advisory committees pursuant to the provisions of the Defense Production Act of 1950, as amended, and policies established by the Department of Justice.

SEC. 2. *Policies and legal requirements.* It is the policy of the Defense Transport Administration in carrying out its assigned responsibilities, wherever practicable, to consult with and ascertain the views of industry groups substantially affected by rules, regulations, orders or amendments thereto, issued or to be issued by the Defense Transport Administration. The recommendations and restrictions placed upon industry advisory committees are designed to assure effective utilization of the services of such committees and at the same time to avoid activities which might be viewed as constituting violations of the antitrust laws. Industry advisory committees function in an advisory capacity only. They are not clothed with any Government authority and do not have power to obtain information from competitors. The purpose of forming such committees is not to obtain agreement from industry on the content of Government rules, regulations and orders but to secure on an individual rather than on a collective basis, constructive suggestions from individuals representing all segments of industry.

SEC. 3. *Membership.* In determining the composition of industry advisory committees, the following factors are considered: Fair representation for independent, small, medium and large business enterprises, for different segments of the industry, for different geographical areas, and for trade association members and nonmembers. Representation of members of trade associations shall be limited to persons actively engaged in the industry concerned. Substitute representation shall be subject to the prior approval of the Administrator, Defense Transport Administration.

SEC. 4. *Subcommittees and Task Groups.* Subcommittees, Task Groups, or other special working groups may be organized to assist the parent committee. They will operate under and be guided by the same general rules as the parent committee.

SEC. 5. *Establishment of committees.* Any division director of the Defense Transport Administration may initiate a request for the establishment of an industry advisory committee. Such requests shall be filed in duplicate with the Executive Assistant, Defense Transport Administration, on the attached Form EA-7. If the Administrator, Defense Transport Administration, approves the establishment of the proposed committee, he will designate a full-time official of the Defense Transport Administration to serve as Chairman of the committee and notify the prospective members that they have been selected by the Defense Transport Administration to serve as committee members. If any such person declines to serve on the committee or if a vacancy occurs on the committee, the Chairman shall submit the name of an appropriate replacement to the Executive Assistant, Defense Transport Administration. The Chairman may designate a full-time official of the Defense Transport Administration to serve as Vice Chairman of the committee. In the absence of the Chairman, the Vice Chairman shall serve as Chairman.

SEC. 6. *Changes in membership.* If a member of a committee resigns or for any reason cannot continue to serve on a committee, or if the Chairman considers that a change should be made in the size or composition of the committee, the Chairman shall notify the Executive Assistant accordingly. If the appointment of new members on the committee is desired or necessary, the Chairman shall furnish the Executive Assistant the name, business affiliation, specific position, and full mailing address of each proposed new member, together with evidence showing that the committee as reconstituted will continue to be representative. The Administrator, Defense Transport Administration, will determine whether proposed new members will be invited to serve on the committee.

SEC. 7. *Security clearances.* The Executive Assistant shall be responsible for requesting the Security Officer to obtain necessary security clearances of members selected to serve on industry advisory committees.

SEC. 8. *Notice of committee meetings.* The committee Chairman shall furnish the Executive Assistant advance notice of any meeting of an industry advisory committee which he desires to call. Such notice shall be given on the attached Form EA-8.

SEC. 9. *Rules governing committee meetings.* The following rules governing the conduct of industry advisory committees shall be observed:

(a) Meetings will be held only on the call of, and at the time and place designated by, the Chairman. Meetings shall not be conducted on other than Government premises.

(b) The Chairman will be present at and preside over all meetings and the control and conduct of all meetings will be the responsibility of the Chairman.

(c) Discussion will be confined to the Agenda formulated by the Chairman.

(d) Full and complete minutes will be prepared for all meetings by a Secretary appointed by the Chairman. Such Secretary shall be a Government employee. The Executive Assistant, Defense Transport Administration, shall decide whether minutes, or a summary thereof shall be distributed and, if so, to whom such distribution shall be made.

(e) Committee members will not meet at any time other than at a regularly called committee meeting.

(f) No one other than committee members (including approved substitutes) and invited Government representatives shall participate in committee meetings as observers or otherwise.

(g) Such legal advice as members of the committee may require in connection with their service on a committee will be furnished by the Defense Transport Administration through the Office of the General Counsel.

(h) All persons attending committee meetings will be responsible for safeguarding any classified security information obtained at such meeting. Classified security documents made available to committee members shall not be retained by such members after the purpose for which such distribution was made has been served.

(i) The Chairman is responsible for the observance of the security regulations of the Defense Transport Administration at committee meetings and for determining the security classification of the committees' minutes. The classification will be assigned in accordance with the security regulations of the Defense Transport Administration.

SEC. 10. *Compensation and expenses.* The Defense Transport Administration will not pay compensation to, or the expenses of, any member of an industry advisory committee in connection with his services on such committee.

SEC. 11. *Report of committee meetings.* Within one week after the date of a meeting of a Defense Transport Administration industry advisory committee, the Chairman shall file with the Executive Assistant, the information called for on the attached Form EA–9.

SEC. 12. *Terminating committees.* When the Chairman considers that an industry advisory committee has served its purpose and is no longer required, he shall recommend the termination of the committee. Such recommendation shall be made on the attached Form EA–10. The Administrator, Defense Transport Administration, will notify the committee members of the termination of the committee.

SEC. 13. *Revocation.* Administrator's Memorandum No. 4, issued on January 20, 1951, is hereby revoked. Industry Advisory Committees established pursuant thereto are hereby terminated.

Issued at Washington, D. C. this 21st day of April 1952.

JAMES K. KNUDSON,
Administrator,
Defense Transport Administration.

(Form EA–7)

DEFENSE TRANSPORT ADMINISTRATION

WASHINGTON 25, D. C.

REQUEST FOR CLEARANCE AND APPROVAL OF THE ESTABLISHMENT OF A DTA INDUSTRY ADVISORY COMMITTEE

(This request is to be filed in duplicate with the Executive Assistant sufficiently in advance of the anticipated establishment of the committee to permit orderly following of the necessary procedures for clearance and approval.)

Responsible DTA Division or Unit: _____
Responsible DTA officer or employee: _____
Title _____
Room No. _____ Telephone No. _____
Name or Designation of committee: _____
Proposed date of first meeting: _____
Duration: _____
(Days)
Proposed place of first meeting: _____
DTA official or employee to act as Chairman of first meeting: _____
_____ Title _____

Statement of purpose for which the proposed committee is to be formed, and defining the subjects on which it will be asked to give advice and information:

Anticipated life of the committee: _____

_____

Probable number and frequency of its meetings: _____

_____

Roster of Membership: Please attach roster of proposed membership, giving for each member his business affiliation, his specific position, and his full mailing address. Furnish a statement to the effect that the proposed committee will be representative of the industry or other interests concerned, and attach adequate supporting data to justify the conclusion that the committee is truly representative.

List of Government agency representatives: Please attach a list of Government agency representatives who are to attend committee meetings, giving for each his agency and title.

Use of classified material: Please indicate the security classification of any material which will be made available to the proposed committee. Also, please indicate the probable classification of any report or other document to be prepared by members of the committee.

Material Used by the Committee

_____ Unclassified.
_____ Restricted—Security Information.
_____ Confidential—Security Information.
_____ Secret—Security Information.
_____ Top Secret—Security Information.

Material To Be Prepared by Committee

_____ Unclassified.
_____ Restricted—Security Information.
_____ Confidential—Security Information.
_____ Secret—Security Information.
_____ Top Secret—Security Information.

Letter of invitation: Please submit with this request a draft of the letter for the Administrator's signature which it is proposed to send out to the individual members inviting them to serve on the proposed committee and to attend its first meeting.

Agenda: Please attach a copy of the agenda which is proposed to be used at the first meeting of the committee.

Related Documents: Please attach copies of the documents proposed to be issued in advance of the first meeting, or at the first meeting, of the committee.

Signed _____
Date _____ Title _____

(Form EA–8)

DEFENSE TRANSPORT ADMINISTRATION

WASHINGTON 25, D. C.

ADVANCE NOTICE OF MEETING OF DTA INDUSTRY ADVISORY COMMITTEE

(Other than Initial Meeting)

(To be filed in duplicate with the Executive Assistant at least fifteen days in advance of the proposed meeting date.)

Name or designation of advisory committee: _____

Date of meeting: _____ Place of Meeting: _____
DTA official or employee to serve as Chairman of the meeting: _____

_____
Title _____

Letter of call: Please attach for clearance a draft of the letter which is to be used to call the proposed meeting and a list of the names of the persons who are to be invited to attend the meeting.

Agenda: Please attach a copy of the agenda to be used in the conduct of the meeting.

Related Documents: Please attach copies of the documents to be issued in advance of the meeting or at the meeting.

Will classified material of a classification higher than that for which the advisory committee has been cleared for security be discussed at the proposed meeting? _____

_____

Will the members of the committee be called upon to prepare reports or other information of higher classification than that for which the committee has been cleared for security? _____

_____

Signed _____
Date _____ Title _____

(Form EA–9)

DEFENSE TRANSPORT ADMINISTRATION

WASHINGTON 25, D. C.

REPORT OF MEETING OF DTA INDUSTRY ADVISORY COMMITTEE

(A report on each meeting of a DTA advisory committee is to be filed in duplicate with the Executive Assistant within one week after the date of the meeting.)

Name or designation of advisory committee: _____

Date of meeting: _____
Place of meeting: _____
DTA official or employee who served as Chairman of the meeting _____

Title _____

Agenda: Please attach a copy of the agenda used in the conduct of the meeting.

Related Documents: Please attach copies of any documents issued at the meeting or following the meeting. Where these documents have been filed with the Advance Notice of the meeting, they need not be filed again.

Minutes: Please attach a copy of the minutes of the meeting, as well as any report or document prepared as a result of the meeting.

List of attendance: Please attach a list of the actual attendance at the meeting, giving for each member his business or professional affiliation, his specific position, and his mailing address.

List of Government agency representatives: Please attach a list of Government agency representatives who actually attended the meeting, giving for each such attendant his title and agency.

Signed _____
Date _____ Title _____

(Form EA–10)

DEFENSE TRANSPORT ADMINISTRATION

WASHINGTON 25, D. C.

NOTICE OF PROPOSED DISCONTINUANCE OF DTA INDUSTRY ADVISORY COMMITTEE

(To be filed in duplicate with the Executive Assistant within ten days after a decision to discontinue the use of a DTA advisory committee has been reached.)

Responsible DTA Division or Unit: _____
Responsible DTA officer or employee: _____
Title _____
Room No. _____ Telephone No. _____
Date committee was established: _____
Name or designation of advisory committee: _____
Date of proposed discontinuance of advisory committee: _____
Draft of letter to be sent to committee members: _____
Reasons for discontinuance of committee:

Signed _____
Date _____ Title _____

[F. R. Doc. 52–4650; Filed, Apr. 22, 1952; 11:56 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 42]

EGGS AND EGG PRODUCTS (STANDARDS AND GRADES)

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the United States Department of Agriculture is considering the issuance, as hereinafter proposed, of United States Consumer Grades and Weight Classes for Shell Eggs, Subpart B; United States Procurement Grades and Weight Classes for Shell Eggs, Subpart C; and United States Wholesale Grades and Weight Classes for Shell Eggs, Subpart D; under Part 42 governing Eggs and Egg Products (7 CFR Part 42). This program is effective pursuant to the authority contained in the Department of Agriculture Appropriation Act of 1952 (Pub. Law 135, 82d Cong., approved Aug. 31, 1951).

These grades are based upon the United States Standards for Quality of Individual Shell Eggs (13 F. R. 1369). The proposed United States Consumer Grades and Weight Classes for Shell Eggs will supersede the United States Specifications and Weight Classes for Consumer Grades for Shell Eggs (13 F. R. 4117, 4221), effective August 19, 1948. The proposed United States Procurement Grades and Weight Classes for Shell Eggs are added as a new subpart. The proposed United States Wholesale Grades and Weight Classes for Shell Eggs will supersede the United States Specifications and Weight Classes for Wholesale Grades for Shell Eggs (14 F. R. 3795) effective August 8, 1949).

The proposed United States Consumer Grades and Weight Classes for Shell Eggs and United States Wholesale Grades and Weight Classes for Shell Eggs are essentially the same as the respective grades and weight classes that are presently in effect. The word "specifications" is eliminated throughout the aforesaid proposed grades in order to simplify the language and avoid confusion with Federal specifications as issued by the Federal Specifications Board, General Services Administration.

The proposed United States Procurement Grades and Weight Classes are similar to the Tentative U. S. Standards for Procurement Grades for Shell Eggs issued January 9, 1943.

It is also proposed to change the name of Part 42, entitled "Eggs and Egg Products (Standards and Grades)" to read "United States Standards, Grades and Weight Classes for Shell Eggs."

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposals should file the same in triplicate with the Chief, Marketing Services Division, Poultry Branch, Production and Marketing Administration, Room 2099 South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 30th day after the publication of this notice in the FEDERAL REGISTER.

The proposed grades and weight classes for shell eggs are as follows:

SUBPART B—UNITED STATES CONSUMER GRADES AND WEIGHT CLASSES FOR SHELL EGGS

Sec.
42.30 General.
42.31 Grades.
42.32 Summary of grades.
42.33 Weight classes.
42.34 Weight tolerances.

SUBPART C—UNITED STATES PROCUREMENT GRADES AND WEIGHT CLASSES FOR SHELL EGGS

42.40 General.
42.41 Grades.
42.42 Summary of grades.
42.43 Weight classes.
42.44 Weight tolerances.

SUBPART D—UNITED STATES WHOLESALE GRADES AND WEIGHT CLASSES FOR SHELL EGGS

42.50 General.
42.51 Grades.
42.52 Summary of grades.
42.53 Weight classes.
42.54 Weight tolerances.

SUBPART B—UNITED STATES CONSUMER GRADES AND WEIGHT CLASSES FOR SHELL EGGS

§ 42.30 *General.* (a) These grades are applicable to edible shell eggs in "lot" quantities rather than on an "individual" egg basis. A lot may contain any quantity of 2 or more eggs. Reference in these standards to the term "case" means 30 dozen egg cases as used in commercial practice in the United States.

(b) Terms used in this part that are defined in the United States standards for quality of individual shell eggs (§ 42.1 et seq.) have the same meaning in this part as in those standards.

(c) An aggregate tolerance of 20 percent is permitted within each consumer grade only as an allowance for variable efficiency and interpretation of graders, normal changes under favorable conditions during reasonable periods between grading and inspection, and reasonable variation of inspector's interpretation.

(d) Substitution of higher qualities for the lower qualities specified is permitted.

§ 42.31 *Grades.* (a) "U. S. Consumer Grade AA" shall consist of eggs of which at least 80 percent are AA Quality. Within the maximum tolerance of 20 percent, which may be below AA Quality, not more than 5 percent may be of the qualities below A, in any combination, but not including Dirties and Leakers.

(b) "U. S. Consumer Grade A" shall consist of eggs of which at least 80 percent are A Quality or better. Within the maximum tolerance of 20 percent which may be below A Quality, not more than 5 percent may be of the qualities below B, in any combination but not including Dirties and Leakers.

(c) "U. S. Consumer Grade B" shall consist of eggs of which at least 80 percent are B Quality or better. Within the maximum tolerance of 20 percent which may be below B Quality, 10 percent may be C Quality or Stained, in any combination, and not over 10 percent may be Dirties or Checks in any combination.

(d) "U. S. Consumer Grade C" shall consist of eggs of which at least 80 percent are C Quality or Stained, in any combination, or better, and the balance may be Dirties or Checks in any combination.

(e) Eggs with stained shells but otherwise conforming to U. S. Consumer Grade A or U. S. Consumer Grade B may be classified as U. S. Consumer Grade A, Stained, or U. S. Consumer Grade B, Stained, respectively.

(f) *Additional tolerances.* (1) Within the maximum tolerance permitted an allowance will be made at receiving points or shipping destination for ½ percent Leakers in U. S. Consumer Grades AA, A, and B, and one percent in Grade C.

(2) In lots of more than 30 cases no individual case may fall below 70 percent of the specified quality and in lots of 30 cases or less the 80 percent minimum requirement shall apply to each individual case.

(g) "No grade" means eggs of possible edible quality that fail to meet the requirements of an official U. S. Grade or that have been contaminated by smoke, chemicals, or other foreign materials that has seriously affected the character, appearance, or flavor of the eggs.

§ 42.32 *Summary of grades.* The summary of the U. S. Consumer Grades for Shell Eggs follows as Table I of this section:

TABLE I—SUMMARY OF U. S. CONSUMER GRADES FOR SHELL EGGS

U. S. consumer grade	At least 80 percent (lot average)[1] must be	Tolerance permitted[2]	
		Percent	Quality
Grade AA	AA Quality	15 to 20	A.
		Not over 5[3]	B, C, Stained, or Check.
Grade A	A Quality or better	15 to 20	B.
		Not over 5[3]	C, Stained, or Check.
Grade B	B Quality or better	10 to 20, not over 10.[3]	C, or Stained. Dirty or Check.
Grade C	C Quality or better	Not over 20	Dirty or Check.

[1] In lots of more than 30 cases no individual case may fall below 70 percent of the specified quality and in lots of 30 cases or less the 80 percent minimum requirement shall apply to each individual case.
[2] Within tolerance permitted, an allowance will be made at receiving points or shipping destination for ½ percent leakers in Grades AA, A, and B, and 1 percent in Grade C.
[3] Substitution of higher qualities for the lower qualities specified is permitted.

§ 42.33 *Weight classes.* The weight classes for U. S. Consumer Grades for Shell Eggs shall be as indicated in Table II of this section and apply to all consumer grades.

TABLE II—U. S. WEIGHT CLASSES FOR CONSUMER GRADES FOR SHELL EGGS

Size or weight class	Minimum net weight per dozen	Minimum net weight per 30 dozen	Minimum weight for individual eggs at rate per dozen
	Ounces	*Pounds*	*Ounces*
Jumbo	30	56	29
Extra Large	27	50½	26
Large	24	45	23
Medium	21	39½	20
Small	18	34	17
Peewee	15	28	

§ 42.34 *Weight tolerances.* Minimum weights listed for individual eggs at the rate per dozen are permitted in various size classes only to the extent that they will not reduce the net weight per dozen below the required minimum.

SUBPART C—UNITED STATES PROCUREMENT GRADES AND WEIGHT CLASSES FOR SHELL EGGS

§ 42.40 *General.* (a) These procurement grades are applicable only to shell eggs in lot quantities. They are designed primarily for Government and institutional procurement. A lot may contain any quantity of one or more cases. Reference to the term "case" means a 30-dozen egg case as used in commercial practice in the United States.

(b) All terms in the United States standards for quality of individual shell eggs (7 CFR 42.1 et seq.) shall, when used in this part, have the same meaning as is given to them in such standards.

(c) Substitution of eggs possessing higher qualities for those possessing lower specified qualities is permitted.

§ 42.41 *Grades.* (a) "U. S. Procurement Grade I" shall consist of eggs of which at least 80 percent are A Quality or better. Within the maximum of 20 percent which may be below A quality, not more than 5 percent may be of the qualities below B. Said maximum tolerance of 5 percent may consist of C quality, Stained, and not more than 3 percent Checks, and not more than 3/10 percent Dirties, Leakers, and Loss combined.

(b) "U. S. Procurement Grade II" shall consist of eggs of which at least 60 percent are A Quality or better. Within the maximum of 40 percent which may be below A Quality, not more than 10 percent may be of the qualities below B. Said maximum tolerance of 10 percent may consist of C Quality, Stained, and not more than 3 percent Checks, and not more than 3/10 percent Dirties, Leakers, and Loss combined.

(c) "U. S. Procurement Grade III" shall consist of eggs of which at least 40 percent are A Quality or better. Within the maximum of 60 percent, which may be below A Quality, not more than 11.7 percent may be of the qualities below B. Said maximum tolerance of 11.7 percent may consist of C Quality, Stained, and not more than 3 percent Checks and not more than 3/10 percent Dirties, Leakers, and Loss combined.

(d) "U. S. Procurement Grade IV" shall consist of eggs of which at least 20 percent are A Quality or better. Within the maximum of 80 percent, which may be below A Quality, not more than 11.7 percent may be of the qualities below B. Said maximum tolerance of 11.7 percent may consist of C Quality, Stained, and not more than 3 percent Checks and not more than 3/10 percent Dirties, Leakers, and Loss combined.

(e) *Individual case tolerances within a lot applying to each of the procurement grades.* (1) Individual cases may contain not over 10 percent less A Quality eggs than specified for any procurement grade provided the average percentage of A Quality eggs for the lot is not less than the percentage specified. In lots of 200 cases or more one case of each 10 examined may contain not over 20 percent less A Quality eggs than the minimum percentage specified for the grade.

(2) Individual cases may contain not over 18 percent eggs below B Quality provided the average percentage for the lot is not more than is specified for the grade.

§ 42.42 *Summary of grades.* The summary of the U. S. Procurement Grades for Shell Eggs follows as Table I of this section:

TABLE I—SUMMARY OF UNITED STATES PROCUREMENT GRADES FOR SHELL EGGS

U. S. procurement grade	A quality or better (lot average at least)	Maximum tolerance permitted [1] [2] (lot average)	
	Percent	Percent	Quality
I	80	15 to 20	B.
		Not over 5	C, Stained, Check, Dirty, Leaker, and Loss.
II	60	30 to 40	B.
		Not over 10	C, Stained, Check, Dirty, Leaker, and Loss.
III	40	48.3 to 60	B.
		Not over 11.7	C, Stained, Check, Dirty, Leaker, and Loss.
IV	20	68.3 to 80	B.
		Not over 11.7	C, Stained, Check, Dirty, Leaker, and Loss.

[1] Individual cases may contain not over 10 percent less A Quality eggs than permitted for the lot, provided the average for the lot is not less than the tolerance permitted in any grade. In lots of 200 cases or more, one case in each 10 examined may contain not over 20 percent less A Quality eggs than is permitted in any grade.

[2] Within each tolerance for qualities below B, each of the grades may contain not over 3 percent Checks, and a combined total of not over 3/10 percent Dirties, Leakers, and Loss. Individual cases may contain not over 18 percent of qualities below B, provided the average for the lot does not exceed the tolerances permitted in any grade.

§ 42.43 *Weight classes.* The weight classes for United States Procurement Grades for Shell Eggs shall be as indicated in Table II of this section and apply to all procurement grades.

TABLE II—WEIGHT CLASSES FOR UNITED STATES PROCUREMENT GRADES

Weight classes	Average net weight on lot basis 30-dozen case	Minimum net weight individual 30-dozen case	Minimum weight for individual eggs, at the rate per dozen	Minimum average percent of individual eggs below minimum weight lot average [1]
	Pounds	*Pounds*	*Ounces*	*Percent*
Extra Large	50.5	50	26	3.33
Large	45	44.5	23	3.33
Medium	39.5	39	20	3.33
Small	34	33.5	17	3.33

[1] Individual cases may contain not over 10 percent of individual eggs below minimum weights.

§ 42.44 *Weight tolerances.* Minimum weights listed for individual eggs at the rate per dozen are permitted in various size classes only to the extent that they will not reduce the net weight per 30-dozen case below the required minimum.

SUBPART D—UNITED STATES WHOLESALE GRADES AND WEIGHT CLASSES FOR SHELL EGGS

§ 42.50 *General.* (a) These wholesale grades are applicable only to shell eggs.

(b) All terms in the United States standards for quality of individual shell eggs (7 CFR 42.1 et seq.) shall, when used in this part, have the same meaning as is given to them in such standards.

(c) Substitution of eggs possessing higher qualities for those possessing lower specified qualities is permitted.

(d) The term "refrigerator eggs" means eggs which have been held under refrigeration for a period of not less than 30 days.

§ 42.51 *Grades.* (a) "U. S. Specials ------% AA Quality shall consist of eggs of which at least 20 percent are AA Quality; and the actual percentage of AA Quality eggs shall be stated in the grade name. The balance may be A Quality except for permitted tolerances, per 30

dozen of eggs, of which 27 eggs (7.5 percent) may be B Quality, C Quality, Stained, Dirties, or Checks in any combination, and 6 eggs (1.7 percent) may be Loss.

(b) "U. S. Extras _____% A Quality" shall consist of eggs of which at least 20 percent are not less than A Quality; and the actual total percentage of A Quality and better quality eggs shall be stated in the grade name. The balance may be B Quality except for permitted tolerances, per 30 dozen of eggs, of which 42 eggs (11.7 percent) may be C Quality, Stained, Dirties, or Checks in any combination, and 8 eggs (2.2 percent) may be Loss. For the period beginning on August 15 of any year and extending through January 31 of the next year, the permitted tolerance for Loss with respect to "refrigerator eggs" is 12 eggs (3.3 percent).

(c) "U. S. Stained Extras _____% A Quality" shall consist of eggs that are Stained but otherwise meet the requirements specified in paragraph (b) of this section for "U. S. Extras _____% A Quality"; and the actual total percentage of A Quality and better quality eggs shall be stated in the grade name.

(d) "U. S. Standards _____% B Quality" shall consist of eggs of which at least 20 percent are not less than B Quality; and the actual total percentage of B Quality and better quality eggs shall be stated in the grade name. The balance may be C Quality and Stained except for permitted tolerances, per 30 dozen of eggs, of which 42 eggs (11.7 percent) may be Dirties or Checks in any combination, and 10 eggs (2.8 percent) may be Loss. In the aforesaid balance the number of Stained eggs shall not exceed 40 percent, by count, of the total number of eggs in the lot. For the period beginning on August 15 of any year and extending through January 31 of the next year, the permitted tolerance for Loss with respect to "refrigerator eggs" is 15 eggs (4.2 percent).

(e) "U. S. Stained Standards _____% B Quality" shall consist of eggs that are Stained but otherwise meet the requirements specified in paragraph (d) of this section for "U. S. Standards _____% B Quality"; and the actual total percentage of B Quality and better quality eggs shall be stated in the grade name.

(f) "U. S. Trades _____% C Quality" shall consist of eggs of which at least 83.3 percent are not less than C Quality eggs which may be Stained; and the actual total percentage of C Quality, Stained, and better quality eggs shall be stated in the grade name. The permitted tolerances, per 30 dozen of eggs, are 42 eggs (11.7 percent) which may be Dirties or Checks in any combination, and 18 eggs (5 percent) which may be Loss.

(g) "U. S. Dirties" shall consist of eggs that are Dirty and contain, per 30 dozen of eggs, not more than 42 eggs (11.7 percent) which are Checks, and 18 eggs (5 percent) which may be Loss.

(h) "U. S. Checks" shall consist of eggs that are Checks and contain, per 30 dozen of eggs, not more than 18 eggs (5 percent) that are Loss.

(i) "No grade" means eggs of possible edible quality that fail to meet the requirements of an official U. S. Grade or that have been contaminated by smoke, chemicals, or other foreign material that has seriously affected the character, appearance, or flavor of the eggs.

§ 42.52 *Summary of grades.* A summary of the United States Wholesale Grades for Shell Eggs follows as Table I of this section:

TABLE I—SUMMARY OF UNITED STATES WHOLESALE GRADES FOR SHELL EGGS

Wholesale grade designation	Minimum percentage of eggs of specific qualities required [1]				Tolerances in terms of maximum number and percentage of eggs, for each 30 dozen of eggs									
	AA Quality	A Quality or better	B Quality or better	C Quality, Stained, or better	B Quality, C Quality, Stained, Dirties, and Checks		C Quality, Stained, Dirties, and Checks		Dirties and Checks		Checks		Loss	
					Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
U. S. Specials ____ % AA Quality [2]	20	Balance	None permitted except for tolerances.		27	7.5	-----	-----	-----	-----	-----	-----	6	1.7
U. S. Extras ____ % A Quality [2]	-----	20	Balance	None permitted except for tolerances.	-----	-----	42	11.7	-----	-----	-----	-----	8	[3] 2.2
U. S. Stained Extras ____ % A Quality [2]	Eggs that are Stained but otherwise meet the requirements for U. S. Extras ____ % A Quality, as stated above.				-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
U. S. Standards ____ % B Quality [2]	-----	-----	20	Balance [4]	-----	-----	-----	-----	42	11.7	-----	-----	10	[3] 2.8
U. S. Stained Standards ____ % B Quality [2]	Eggs that are Stained but otherwise meet the requirements for U. S. Standards ____ % B Quality, as stated above.				-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
U. S. Trades ____ % C Quality [2]	-----	-----	-----	83.3	-----	-----	-----	-----	42	11.7	-----	-----	18	5
U. S. Dirties	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	42	11.7	18	5
U. S. Checks	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	18	5

[1] Substitution of eggs possessing higher qualities for those possessing lower specified qualities is permitted.
[2] The actual total percentage must be stated in the grade name.
[3] For the period beginning on Aug. 15 of one year and extending through Jan. 31 of the next year, the permitted tolerance for loss with respect to "refrigerator eggs" is 12 eggs (3.3 percent) and 15 eggs (4.2 percent) for U. S. Extras ____% A Quality and U. S. Standards ____% B Quality, respectively.
[4] Of this balance the number of Stained eggs shall not exceed 40 percent of the total number of eggs in the lot.

§ 42.53 *Weight classes.* The weight classes for the United States Wholesale Grades for Shell Eggs shall be as indicated in Table II of this section and, subject to the stated tolerance of 10 percent, shall apply to all wholesale grades except U. S. Dirties and U. S. Checks. There are no weight classes for U. S. Dirties or U. S. Checks.

TABLE II—WEIGHT CLASSES FOR UNITED STATES WHOLESALE GRADES FOR SHELL EGGS

Weight classes	Per 30 dozen eggs		Weights for individual eggs at rate per dozen	
	Average net weight on a lot [1] basis	Minimum net weight individual case [2] basis	Minimum weight	Weight variation tolerance for not more than 10 percent, by count, of individual eggs
	At least—			
Extra Large	50½ pounds	50 pounds	26 ounces	Under 26 but not under 24 ounces.
Large	45 pounds	44 pounds	23 ounces	Under 23 but not under 21 ounces.
Medium	39½ pounds	39 pounds	20 ounces	Under 20 but not under 18 ounces.
Small	34 pounds	None	None	None.

[1] Lot means any quantity of 30 dozen or more eggs.
[2] Case means standard 30 dozen egg cases as used in commercial practice in the United States.

§ 42.54 *Weight tolerances.* The minimum weights, listed in Table II of § 42.53, for individual eggs are at the rate per dozen and are subject to a weight variation tolerance of 10 percent, by count, for individual eggs as stated in Table II.

(Pub. Law 135, 82d Cong., approved Aug. 31, 1951)

Done at Washington, D. C., this 17th day of April 1952.

[SEAL] F. R. BURKE,
Acting Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 52-4581; Filed, Apr. 22, 1952; 8:56 a. m.]

[7 CFR Part 913]

HANDLING OF MILK IN GREATER KANSAS CITY MARKETING AREA

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER AMENDING THE ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Kansas City, Missouri, on February 18–19, 1952, pursuant to notice thereof which was issued on February 12, 1952 (17 F. R. 1479).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on March 31, 1952, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on April 3, 1952 (17 F. R. 2892).

The material issues and the findings and conclusions of the recommended decision (17 F. R. 2892; F. R. Doc. 52–3820) are hereby approved and adopted as the material issues and the findings and conclusions of this decision as if set forth in full herein.

Within the period reserved therefor, exceptions were filed to certain of the findings, conclusions and actions recommended by the Assistant Administrator. In arriving at the findings, conclusions, and regulatory provisions of this decision, such exceptions were carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that findings, conclusions and actions decided upon herein are at variance with any of the exceptions, such exceptions are overruled.

Determination of representative period. The month of January 1952 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order amending the order, as amended, regulating the handling of milk in the Greater Kansas City marketing area in the manner set forth in the attached amending order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area specified in such marketing order, as amended.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively "Marketing Agreement Regulating the Handling of Milk in the Greater Kansas City Marketing Area" and "Order Amending the Order, as Amended, Regulating the Handling of Milk in the Greater Kansas City Marketing Area" which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, and as hereby proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 18th day of April 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] Amending the Order, as Amended, Regulating the Handling of Milk in the Greater Kansas City Marketing Area

§ 913.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Greater Kansas City marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for milk in the said marketing area and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Greater Kansas City marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, is hereby further amended as follows:

1. Amend § 913.7 to read as follows:

§ 913.7 *Producer.* "Producer" means any person, other than a producer-handler, who (a) produces milk under a dairy farm permit or rating issued by the applicable health authority of the marketing area for the production of milk to be used for consumption as milk in the marketing area on a dairy farm subject to the regular inspection of such authority, which (1) is received at a pool plant, or (2) is caused to be diverted from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association, or (b) produces milk acceptable to agencies of the U. S. Government for fluid consumption in its institutions or bases as Type I; Type II, No. 1; or Type III, No. 1, which is received at a pool plant supplying Class I milk to such an institution or base in the marketing area. This definition shall not include a person with respect to milk produced by him which is received by a handler who is subject to another Federal marketing order and who is partially exempted from this part pursuant to the provisions of § 913.62. As used in this part "dairy farm permit or rating" means one issued by the health authority charged with the inspection of milk for fluid consumption in the part of the marketing area where such milk is sold or disposed of, or was sold or disposed of before being diverted.

2. Amend § 913.22 (j) (1) to read as follows:

(1) On or before the 10th day of each month the minimum price for Class I milk pursuant to § 913.51 (a) and the Class I butterfat differential pursuant to § 913.52 (a), both for the current delivery period; and on or before the 5th day of each month the minimum price for Class II milk pursuant to § 913.51 (b) and the Class II butterfat differential pursuant to § 913.52 (b), both for the delivery period immediately preceding; and

3. Delete § 913.51 (a) and substitute therefor the following:

§ 913.51 *Class prices.* * * *

(a) *Class I milk.* The basic formula price for the preceding delivery period plus $1.15 during each of the delivery periods of April, May, June and July, and plus $1.45 during all other delivery periods, plus or minus a "supply-demand" adjustment computed as follows:

(1) Divide the total gross volume of Class I milk (less inter-handler transfers) in the first and second delivery periods immediately preceding by the total receipts of producer milk for the same delivery periods, multiply the result by 100, and round to the nearest

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

whole number. The result shall be known as the Class I utilization percentage.

(2) Compute a "net utilization percentage" by subtracting from the Class I utilization percentage computed pursuant to subparagraph (1) of this paragraph, the percentage shown below for the delivery period:

Delivery period for which price applies	Delivery periods used in computation	Percentage
January	November-December	89
February	December-January	87
March	January-February	84
April	February-March	82
May	March-April	80
June	April-May	75
July	May-June	68
August	June-July	66
September	July-August	66
October	August-September	73
November	September-October	82
December	October-November	87

(3) For each plus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be increased 4 cents and for each minus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be decreased 4 cents: *Provided*, That in no event shall an adjustment made pursuant to this subparagraph exceed 45 cents per hundredweight.

4. Amend § 913.71 (c) to read as follows:

(c) For each of the delivery periods of April, May, June and July, subtract an amount equal to 40 cents per hundredweight of the total amount of milk received by handlers from producers and included in these computations, to be retained in the producer-settlement fund for the purpose specified in § 913.86.

[F. R. Doc. 52-4580; Filed, Apr. 22, 1952; 8:56 a. m.]

[7 CFR Part 943]

[Docket No. AO-231-A1]

Handling of Milk in the North Texas Marketing Area

Decision With Respect to Proposed Marketing Agreement and Proposed Order Amending the Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was conducted at Dallas, Texas, on March 17-19, 1952, pursuant to notice thereof which was issued on March 10, 1952 (17 F. R. 2133).

The material issues of record related to:

1. The price for Class I milk;
2. The price for Class II milk;
3. The definition of "approved plant" and other provisions of the order as they relate to a handler receiving both producers' milk and other source milk from dairy farmers at a single location;
4. The computation of uniform prices for base milk and excess milk; and
5. The necessity for action which would require the omission of a recommended decision.

Findings and conclusions. The following findings and conclusions with respect to the aforementioned issues are made upon the basis of the record of the hearing and the evidence contained therein.

1. *The price for Class I milk.* The price for Class I milk should be the basic formula price of the order plus $2.00 for the months of April, May and June and plus $2.20 for all other months; such price should be automatically adjusted in response to changes in the relationship between market supply and demand; in addition provision should be made that the Class I price shall not be less than $6.68 for the months of May through September 1952.

The present Class I price of the order is established by adding $2.00 to a basic formula price of 18 midwest condenseries, a butter-powder formula or the paying prices of specified local manufacturing plants. A supply-demand adjustment (effective October 1952) is provided to change this price on the basis of the relationship of market supply and demand. A cooperative association of producers proposed that the differential to be added to basic formula prices be increased to $2.35, that the supply-demand adjustment be made effective immediately, and that action be taken to prevent the Class I price from being less than $6.91 for a period of 12 months.

The North Texas order became effective October 1, 1951, and was formulated upon the basis of the record of a public hearing held January 31-February 20, 1951. However, the minimum prices of the order have not been the effective prices of the market. As of September 1 most handlers established a producer price of $6.91 per hundredweight of milk received. After the order became effective handlers apparently adopted the $6.91 as a Class I price and for milk delivered in the months of October through December, most producers were paid a price that exceeded the uniform price of the order by the same amount that $6.91 exceeded the Class I price of the order. For these months the average of the prices reported by all handlers as paid producers were 84, 80 and 71 cents, respectively, more than the uniform order prices to producers. The Class I price of the order increased from $6.075 for October to $6.193 for December.

In paying producers for January milk on February 15 many but not all handlers reduced their premium Class I price from $6.91 to $6.68 despite the fact that the general level of dairy prices was advancing at this time. The basic formula price which determines the Class I price of the order reflects the national market for dairy products. Changes in this basic formula price increased the Class I price from $6.193 for December to $6.35 for January, $6.42 for February and $6.631 for March. Reports of the payments handlers made to producers for February milk were not available at the time of the hearing.

Receipts of producer milk were less than Class I sales each month from September through January, ranging from 87.0 percent in November to 96.7 percent in January. For February producer receipts were still only 101.5 percent of Class I sales. Daily average receipts have increased each month since September. February daily average receipts were approximately 19 percent larger than those of September. Class I sales increased 5.5 percent in the same period. Producer numbers increased 4 percent during the period of October through February and daily average production per producer was 566 pounds in February as contrasted with a low of 486 in November. A seasonal increase in production may be expected during this period. The record indicates that producer numbers were increased through extension of the milkshed into new areas not so seriously affected by drought in 1951, principally in Oklahoma and Arkansas. 171 producers left the market and 273 new producers were added in a five month period.

Handlers contend that the increases in producer numbers and supplies of producer milk during the period of operation of the order indicate a healthy situation and that consequently no changes in the Class I pricing provisions of the order are warranted. The additional producers were added to the market on the basis of the premium prices paid by handlers and not by the prices of the order. Increases in production per producer are to be expected at this season of the year.

A devastating drought occurred in Texas in 1951 which seriously affected conditions in the North Texas milkshed. Drought conditions have persisted in much of the area in the early months of 1952. As of February 15 official releases of the Soil Conservation Service listed 7 Texas counties in which there are 743 producers as an area of severe drought with poor land cover protection against wind and water erosion, 11 counties in which there are 620 producers as very dry with fair cover, and 7 counties with 292 producers as dry with fair cover. Of the remaining 854 producers in Texas only 167 are in areas for which moisture and cover conditions were considered adequate. While some late February and early March rains had occurred the record indicates that present subsoil moisture was inadequate to provide prospects for 1952 crops. With normal rainfall from the date of the hearing production of milk will still be seriously affected by the results of the drought for a considerable period. Native grasses have been severely overgrazed and have suffered root damage so that they will not provide normal pasture for sometime. The fall crops of barley, oats, rye and vetch either could not be seeded or have failed in many areas. These crops would have been used for pasture this summer or for feed in the coming winter. The normal seeding date for many spring crops has now passed so that even if moisture conditions improve these crops will be late. It will be necessary for dairymen to incur additional expense in seeding larger acreages of crops this spring to supply the feed which they normally would get from native pastures and fall sown crops.

The returns that producers have received have not been sufficient to cover their costs under the adverse conditions

of the past year. The testimony of a banker and officials of a production credit association and the Farmers Home Administration establish the fact that there has been no net liquidation on their loans for dairy production and that on the whole their borrowers have had operating losses. This is further substantiated by the testimony of producers who from their long experience in the market are probably better than average operators, and by the credit experience of a feed dealer.

Under these circumstances the maintenance of a reasonably adequate supply of milk for the coming fall and winter will be seriously jeopardized unless prices are maintained at approximately the March level throughout the coming spring and summer season. While the Class I price of the order increased to $6.631 is a result of the effect of the rapid increase in butter prices in early February on the butter-powder formula price, rapidly declining butter prices in March presaged a lower Class I price for April, and official notice is taken that the April price of the order is $6.386. The record indicates that handlers have in effect been paying premiums on Class II milk as well as Class I milk and that a continuation of this situation in months of flush production could result in considerable instability in the market. It is not considered necessary that the Class I price be restored to the $6.91 level for the coming summer season nor that action be taken at this time to assure a minimum dollars and cents Class I price for a period longer than through September of 1952. By that date crop production in 1952 will have been established. The ratio of receipts of milk in July and August to Class I sales in those months are used in the supply-demand adjustment of the October Class I price. Production conditions in July and August will in all likelihood be reasonably indicative of the degree to which the effects of the drought have been alleviated in 1952. The order now provides that for the months of October through December the Class I price shall not be less than that for the preceding month unless a downward change is indicated by the supply-demand adjustment. The $6.68 price will thus be carried through December. It is concluded that the order should provide that through September 1952 the Class I price should not be less than $6.68, the last effective Class I price shown on the record, except as a downward change is indicated by the supply-demand adjustment provided in this decision.

Producers for the North Texas market are not yet accustomed to milk prices determined by basic formulas. Under present production conditions and the needs of the market, it is concluded that producers should be assured that the Class I price not drop below the $6.68 level during the immediate future unless the market should be oversupplied with milk.

Consideration of the proposal for an increase in the differential to be added to basic formula prices to determine Class I prices must of necessity be upon a basis other than the responses made by producers since the effective date of the order. Class I prices of the order have not been the effective prices of the market and production conditions have not been normal. The proposed increase of 35 cents for all months of the year would result in the Class I price of the North Texas market being somewhat out of line in April, May, and June with the Tulsa, Muskogee, and Oklahoma City markets with which the record shows competition for producers. In addition it would accentuate the problem of North Texas handlers who compete for bulk sales in other Texas markets with handlers from markets in which there is a wide seasonal difference in Class I prices. Consideration of the prices that have prevailed in the market in the past indicate the propriety of some increase in the annual level of the Class I differential. It is concluded that the differential should be increased to $2.20 for the months of July through March, but that there should be no increase for the months of April, May, and June. The resulting increase of 15 cents in the annual level of the differential will result in Class I prices in the North Texas market which are still substantially below the cost of imported milk in the short season of the year.

The proposal that the supply-demand adjustment now contained in the order be made effective immediately raises the question as to whether a means of adjusting the Class I price upon the basis of the relationship between receipts of milk from producers and Class I sales should ever be effective, and if so what provisions should be adopted to effect such adjustment. It is concluded that such adjustment should be made and be effective without further delay. If supplies of milk are tending to fall below a level which will assure adequate milk throughout the year, the price should be increased in order to attract a greater supply of milk. Conversely, if supplies exceed this level the price should be reduced. A "supply-demand" adjustment of the Class I price will automatically adjust the price to changing conditions which otherwise would require hearing procedure.

Such an adjustment should reflect conditions as currently as possible. The last two months for which data are available on the date for announcing the Class I price represent a reasonably current period that will indicate whether supplies and sales will be in reasonable adjustment in the month to be priced. The use of a supply-demand ratio of two months requires the establishment of a representative relationship of producer receipts to Class I sales by successive two-month periods. While data for such a representative relationship are not available from reports under the order, and the market has not been adequately supplied on an annual basis for several years, there are available on the record data from which such representative relationships can be constructed. Many of these data are from records of the Dallas health authorities, representing more than 60 percent of the total milk of the market and supplied from all parts of the milkshed. In addition testimony on the record establishes that minimum receipts of milk should be 105 percent of Class I sales if the market is to be considered to be adequately supplied in months of low production. This relationship in the months of low production is modified for other periods to allow for seasonal variations. In order that allowance may be made for some year to year variation in seasonal patterns the representative ratios are expressed as a range of 10 percentage points. Whenever the actual ratio of receipts to Class I sales falls within this range in the months indicated, no adjustment is indicated in the Class I price of the month for which the price is to be computed; when the actual ratio is less than the minimum an increase in the Class I price is provided, and when the actual ratio is above the maximum a decrease in the Class I price is provided.

The following are the representative ratios concluded to be appropriate:

2-month period	Representative ratio		Month for which such ratio is used
	Minimum	Maximum	
January-February	108	118	April.
February-March	112	122	May.
March-April	115	125	June.
April-May	120	130	July.
May-June	125	135	August.
June-July	120	130	September.
July-August	115	125	October.
August-September	107	117	November.
September-October	100	110	December.
October-November	100	110	January.
November-December	102	112	February.
December-January	105	115	March.

These ratios differ somewhat from those now included in the order. The range is somewhat narrower than that now provided in order that price changes in response to changing conditions will take place more promptly. For most months this has been accomplished by lowering the maximum percentage, thus providing for price decreases at a lower level of supply. For other months, however, it is concluded that the normal seasonal pattern of supply requires some increase in the minimum percentage to be truly representative.

The record indicates that the 2.5 cent adjustment per percentage point for variations below the minimum or in excess of the maximum of the representative range is an appropriate ratio of adjustment. A maximum limit of 50 cents should however be placed upon the amount of the increase or decrease that may be made as a result of the supply-demand provision. Maladjustment of supply indicating an adjustment in excess of this amount would probably require a public hearing. Such limit will also prevent the Class I price from exceeding the cost of imports from northern markets during the short production seasons. The "supply-demand" adjustment should be made effective at once. In view of the decision herein with respect to a "floor price" for the months through September 1952, the effectiveness of the provision for the period within which the "floor price" is in effect could be either (1) upward adjustment of basic formula price plus differentials to a price in excess of the "floor price" or (2) downward adjust-

ment of either the "floor price" or a formula price equal to or in excess of the "floor price".

A further modification which relates to both Class I and Class II prices should be made. A plant named in the order as one at which the paying prices for ungraded milk are averaged with three other plants as one of the alternatives of the basic formula price has ceased buying ungraded milk so that price quotations are no longer available. The plant should be deleted from the list of plants in the order and the average paying price of the three remaining plants used. This average price is also an alternative price used in determining the price for Class II milk.

2. *The price for Class II milk.* For April, May and June the Class II price should be determined solely from the paying prices of local manufacturing plants.

The price for Class II milk (that in excess of Class I needs) in the North Texas market is the higher of the prices paid for ungraded milk at specified Texas manufacturing plants or the butter-powder formula price of the order. Handlers proposed that the Class II price of the order should be the lower of these two prices less 50 cents.

The evidence in support of this proposal was largely concerned with experiences of small handlers without facilities for manufacturing dairy products in disposing of small quantities of Class II milk in January and February. During these months the butter-powder formula price of the order exceeded the local plant price. In all other months the local plant price exceeded the butter-powder price. The record indicates that the former relationship is likely to prevail in March. It also indicates that a handler with substantial manufacturing facilities is currently offering to buy Class II milk in 2500 gallon tank truck lots at a premium over the local plant price f. o. b. the plants of the handlers who receive the milk from producers. It was further stated that another manufacturing plant was offering to purchase Class II milk at the local plant price.

Milk cannot be priced to handlers so that every handler can be assured of a profit in handling it. Handlers without facilities for processing receipts in excess of their needs must buy their milk in competition with handlers better able to process and dispose of it. While manufacturing facilities are not well distributed over the extensive North Texas marketing area there is opportunity for a volume of milk equal to any prospective surplus to be diverted directly to manufacturing plants if the remainder is equitably divided among handlers.

The conditions shown on the record do not justify any general decrease in the level of Class II prices. It is concluded, however, that for the months of April, May and June the Class II price should be based solely on the paying prices of the local manufacturing plants. During these months the volume of Class II milk may be expected to be greater than for other months, and a recurrence of the pricing relationships that obtained in January and February might interfere with the handling of all producer milk.

3. *Handlers regularly receiving both producer milk and other source milk from dairy farmers at a single location.* A handler who operates both fluid milk and milk manufacturing processes in a single building proposed that the order be so modified that the milk manufacturing facilities be considered a separate plant for which he would not be a handler. This handler regularly receives ungraded milk from dairy farmers for his manufacturing facilities, disposes of cream, condensed skim milk and ice cream mix to the ice cream operators of other handlers and to unapproved plants. In the operation of the order cream transferred from his manufacturing facilities to other handlers for ice cream use has been reclassified to Class I because the receiving handlers were in the same month importing outside Grade A milk for their bottling operations. There have also been occasions when milk transferred to the manufacturing handler has been reclassified because on a monthly basis his producer milk was short of his Class I needs.

The evidence indicates that in a market in which imports of Grade A milk have been necessary this handler is handicapped in his normal business of supplying other handlers with ungraded cream for ice cream. The proposal to define "approved plant" so that the manufacturing facilities would be excluded raises difficult administrative problems in verifying the volume of milk transferred from the handler's fluid milk operations to his manufacturing facilities. Further, the classification of milk so transferred depends upon the utilization of milk in an unapproved plant, from which any disposition of cream would be regarded as Class I.

It is concluded that provision should be made to prevent reclassification of transfers of ungraded cream to other handlers from an approved plant at which ungraded milk is regularly received from dairy farmers, and that the allocation provisions of the order should be clarified with respect to interhandlers transfers in forms other than milk, skim milk or cream. Condensed skim milk is such an item for which classification as Class II milk is established by its production. In order that any reconstitution of such a product for Class I use may be subject to reclassification the section of the order providing for reclassification of milk on audit has been reworded. These changes will not materially affect the classification of milk transferred to the manufacturing handler by other handlers.

4. *Computation of uniform prices for base milk and excess milk.* The present provisions for computing uniform prices for base milk and excess milk in the North Texas order provide for such computations to be on a 4.0 percent butterfat basis, with the residual value of the pool being assigned to base milk after assigning excess milk first to Class II and then to Class I milk at a 4.0 percent value. Experience has shown that the milk available for Class II use is of a higher butterfat test than either 4.0 percent or the incoming test of producer milk. As a result of the differences between the Class butterfat differentials and the producer butterfat differential the residual value is reduced so that under the present method of computation the base price may be expected to be less than the Class I price in the months of April, May and June for which base and excess prices are computed even though all base milk is used in Class I. The record indicates that this would be very confusing to producers. This may be avoided by providing that the excess price be computed at the Class II price plus any value in the pool which would result in the base price exceeding the Class I price. It is concluded that this change should be adopted.

5. The due and timely execution of the function of the Secretary under the act imperatively and unavoidably requires the omission of a recommended decision by the Assistant Administrator, Production and Marketing Administration, and the opportunity for exception thereto, on the above issues.

The conditions complained of are such that it is urgent that remedial action be taken as soon as possible. Delay beyond the minimum time required to make the attached order effective would defeat the purpose of such amendment. Accordingly, the time necessarily involved in the preparation, filing, and publication of a recommended decision, and exceptions thereto, would make such relief ineffective. The propriety of omitting the recommended decision and opportunity for filing exceptions thereto with respect to all proposals considered was indicated by proponents on the record.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of producers and handlers who would be subject to the proposed marketing agreement and the order as hereby proposed to be amended. The briefs contained suggested findings of fact, conclusions, and arguments with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the requests to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the findings and conclusions in this decision.

General findings. (a) The proposed marketing agreement and the order as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and in the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and

wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity, specified in a marketing agreement upon which a hearing has been held.

Determination of representative period. The month of February 1952 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of an order amending the order regulating the handling of milk in the North Texas marketing area in the manner set forth in the attached amending order is approved or favored by producers who during such period were engaged in the production of milk for sale in the marketing area specified in such order.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled "Marketing Agreement Regulating the Handling of Milk in the North Texas Marketing Area" and "Order Amending the Order Regulating the Handling of Milk in the North Texas Marketing Area" which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 18th day of April 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

Order[1] Amending the Order Regulating the Handling of Milk in the North Texas Marketing Area

§ 943.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the North Texas marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for milk in the marketing area, and the minimum prices specified in the order, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as hereby amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the North Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 943.43 (b) and substitute therefor the following:

(b) Any skim milk or butterfat classified as Class II milk shall be reclassified if such skim milk or butterfat is later disposed of by such handler or by another handler (whether in original or other form) as Class I milk.

2. Delete § 943.44 (a) and substitute therefor the following:

(a) As Class I milk if transferred or diverted in the form of milk, skim milk or cream to the approved plant of another handler (other than a producer-handler) except as:

(1) Utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred;

(2) The receiving handler has utilization in Class II of an equivalent amount of skim milk and butterfat, respectively; and

(3) Classification as Class II milk does not decrease the total volume of producer milk assigned pursuant to § 943.46 to Class I in the two plants: *Provided,* That this subparagraph shall not operate to classify as Class I milk any skim milk and butterfat transferred in the form of cream from ungraded sources for manufacturing purposes only from an approved plant at which ungraded milk is regularly received from dairy farmers.

3. Delete § 943.46 (a) and substitute therefor the following:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk determined pursuant to § 943.41 (b) (3);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from other handlers in a form other than milk, skim milk or cream according to its classification to § 943.41;

(3) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk received as Class II milk in the form of cream from ungraded sources from the approved plant of another handler at which ungraded milk is regularly received from dairy farmers;

(4) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk: *Provided,* That if the receipts of skim milk in other source milk are greater than the remaining pounds of skim milk in Class II, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I;

(5) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of milk, skim milk or cream (other than that allocated pursuant to subparagraph (3) of this paragraph) according to its classification as determined pursuant to § 943.44 (a);

(6) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(7) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be called "overage."

4. In § 943.50 (c) delete the following:
Fairmont Foods Company, Wichita Falls, Texas.

5. Delete § 943.51 (a) and substitute therefor the following:

(a) *Class I milk.* The basic formula price for the preceding month, plus $2.00 for each of the months of April, May and June and plus $2.20 for all other months, subject to the following:

(1) A supply-demand adjustment of not more than 50 cents computed as follows:

(i) For the second and third months preceding the month to which the price applies determine the total pounds of Class I milk (less interhandler transfers) for all handlers exclusive of producer-handlers and handlers partially exempt from this order pursuant to § 943.61;

(ii) For the same months determine the total pounds of milk received from producers by the same handlers;

(iii) Divide the result obtained in subdivision (ii) of this subparagraph by the result obtained in subdivision (i) of this subparagraph to obtain a "net utilization

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

percentage," rounded to the nearest whole percent;

(iv) For each percentage point that the "net utilization percentage" is less than the minimum percentage listed below for such two-month period the Class I price shall be increased 2.5 cents, and for each percentage point that the "net utilization percentage" is more than the maximum percentage listed below for such two-month period the Class I price shall be decreased 2.5 cents.

2-month period	Percentages		Month to which adjustment applies
	Minimum	Maximum	
January–February	108	118	April.
February–March	112	122	May.
March–April	115	125	June.
April–May	120	130	July.
May–June	125	135	August.
June–July	120	130	September.
July–August	115	125	October.
August–September	107	117	November.
September–October	100	110	December.
October–November	100	110	January.
November–December	102	112	February.
December–January	103	115	March.

(2) Except for adjustments pursuant to subparagraph (1) of this paragraph, such price for each of the months of October, November and December shall not be less than that for the preceding month, and such price for each of the months of April, May, and June shall not be more than that for the preceding month.

(3) For each month through September 1952, the Class I price shall not be less than $6.68, subject to any decrease pursuant to subparagraph (1) of this paragraph.

6. Delete § 943.51 (b) and substitute therefor the following:

(b) *Class II milk.* The price computed pursuant to § 943.50 (c) for the months of April, May, and June, and the higher of the prices computed pursuant to § 943.50 (b) or (c) for all other months.

7. Delete § 943.73 and substitute therefor the following:

§ 943.73 *Computation of uniform prices for base milk and excess milk.* For each of the months of April through June the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, received from producers at approved plants as follows:

(a) Compute the total value on a 4.0 percent butterfat basis of excess milk included in these computations by (1) multiplying the hundredweight of such milk by the price for Class II milk of 4.0 percent butterfat content, and (2) adding to the result the amount, if any, indicated in paragraph (c) of this section:

(b) Divide the total value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat received from producers;

(c) The total value of base milk included in these computations shall be the lesser of:

(1) The aggregate value computed pursuant to § 943.71 less the value computed pursuant to subparagraph (a) (1) of this section, or

(2) The hundredweight of such base milk multiplied by the price for Class I milk of 4.0 percent butterfat content plus 4 cents.

(3) Any amount by which the value computed pursuant to subparagraph (1) of this paragraph exceeds the value computed pursuant to subparagraph (2) of this paragraph shall be added to the total value of excess milk pursuant to subparagraph (a) (2) of this section;

(d) Divide the amount obtained in paragraph (c) of this section by the total hundredweight of base milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content received from producers.

ORDER OF THE SECRETARY DIRECTING THAT A REFERENDUM BE CONDUCTED AMONG PRODUCERS SUPPLYING MILK: DETERMINATION OF A REPRESENTATIVE PERIOD: AND DESIGNATION OF AGENT TO CONDUCT SUCH REFERENDUM

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (19)), it is hereby directed that a referendum be conducted among the producers (as defined in the order regulating the handling of milk in the North Texas marketing area) who, during the month of February 1952, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of an order, amending the order, which is filed simultaneously herewith.

The month of February 1952 is hereby determined to be the representative period for the conduct of such referendum.

Byford W. Bain is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for conducting of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177), such referendum to be completed on or before the 10th day from the date this referendum order is issued.

Done at Washington, D. C., this 18th day of April 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52-4579; Filed, Apr. 22, 1952; 8:56 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 42]

PILOT TRAINING AND CHECK PROGRAM

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Civil Aeronautics Board has under consideration the adoption of a proposed amendment to Part 42 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by May 23, 1952. Copies of such communications will be available after May 27, 1952, for examination by interested persons at the Docket Section of the Board, Room 5412, Commerce Building, Washington, D. C.

The reasons the Board believes it necessary to propose action prescribing additional requirements with respect to pilot training and check programs for Part 42 operators are set forth at length in Amendment 42–11 [1] issued concurrently herewith as an emergency action.

The Board's action in promulgating such emergency amendment does not represent a determination upon all the facts and circumstances which may be before it on final consideration of this matter. However, on the basis of the facts and conditions presently known to the Board as recited in the said emergency amendment, it appears that such amendment is in the interest of safety in air commerce.

In view of the foregoing, the Board has under consideration the issuance of amendments to Part 42 which will accomplish the following with respect to all operators of large aircraft conducting operations in accordance with the provisions of Part 42 of the Civil Air Regulations:

1. Require the designation by the carrier of a responsible chief pilot who shall certify in some acceptable manner that a pilot assigned to a particular flight is qualified to act in his assigned crew capacity for the particular operation involved.

2. Require the designation by the operator of a sufficient number of check pilots acceptable to the Administrator to accomplish the checks required by the Civil Air Regulations.

3. Require that all pilot checks not given by a representative of the Administrator be given by a check pilot of the employing carrier.

4. Require written examinations at appropriate intervals to ensure that pilots are particularly familiar with the contents of the air carrier's Operations Manual and the types of instrument approach and navigational facilities and procedures as may be used.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Sec. 205 (a), 52 Stat. 984; 49 U. S. C. 425 (a). Interpret or apply secs. 601–610, 52 Stat. 1007–1012; 49 U. S. C. 551–560; 62 Stat. 1216)

Dated: April 17, 1952, at Washington, D. C.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 52-4574; Filed, Apr. 22, 1952; 8:54 a. m.]

[1] See F. R. Doc. 52-4573, Title 14, Chapter I, Part 42, *supra*.

HOUSING AND HOME FINANCE AGENCY

Home Loan Bank Board

[24 CFR Part 161]

[No. 5122]

INSURED MEMBER

AMENDMENT DEFINING WHO ARE INSURED MEMBERS FOR PURPOSES OF INSURANCE OF ACCOUNTS

APRIL 16, 1952.

Resolved that, pursuant to Part 108 of the general regulations of the Home Loan Bank Board (24 CFR Part 108), § 161.2 of the rules and regulations for Insurance of Accounts (24 CFR 161.2) is hereby proposed to be amended to read in the form hereinafter set forth.

Resolved further that a hearing will be held on Tuesday, May 27, 1952, at 10 o'clock in the forenoon in Room 827, Federal Home Loan Bank Board Building, 101 Indiana Avenue NW., Washington, D. C., before the Home Loan Bank Board, a member thereof, or a hearing officer designated by the Board, for the purpose of receiving evidence, oral views and arguments on said proposed amendment of the rules and regulations for Insurance of Accounts, if written notice of intention to appear at said hearing is received by the Secretary to the Home Loan Bank Board at least five days before said date. If no such written notice of intention to appear has been received by the Secretary to the Board at least five days before the date set for the hearing, the hearing will be dispensed with. Whether or not a hearing is held, written data, views or arguments on said proposed amendment which are received by the Secretary to the Home Loan Bank Board on or before May 22, 1952, or prior to the conclusion of the hearing, if held, will be considered by the Home Loan Bank Board in connection with its consideration of the proposed amendment of the said rules and regulations.

§ 161.2 *Insured member.* An "insured member" may be an individual, a partnership, an association, or a corporation holding an insured account. An individual, a partnership, an association, or a corporation may be trustee for any number of beneficiaries: *Provided*, That the trust account is specifically designated in such a manner as to disclose the custodial nature thereof: *And provided further*, That the beneficiaries and their respective interests in such trust account are disclosed upon the records of the insured institution or upon the records of the trustee in whose name the insured account is maintained and such records have been maintained in good faith and in the regular course of business. The account of an insurable type of each such beneficiary shall be deemed an insured account. In computing the insured investment in any insured institution, the amount of the interest of such beneficiary under a trust shall be combined with other accounts of the beneficiary, and the insured investment shall be the total, less any amount in excess of $10,000.

(Sec. 402, 48 Stat. 1256, as amended; 12 U. S. C. 1725)

By the Home Loan Bank Board.

[SEAL] J. FRANCIS MOORE, *Secretary.*

[F. R. Doc. 52-4570; Filed, Apr. 22, 1952; 8:54 a. m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[Administrative Order 3621]

DELAWARE

LOAN ANNOUNCEMENT

MARCH 13, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Delaware 2X Sussex	$1,220,000

[SEAL] WM. C. WISE, *Acting Administrator.*

[F. R. Doc. 52-4542; Filed, Apr. 22, 1952; 8:47 a. m.]

[Administrative Order 3622]

ALLOCATION OF FUNDS FOR LOANS

MARCH 15, 1952.

Inasmuch as Douglas Electric Cooperative, Inc., has transferred certain of its properties and assets to Lane County Electric Cooperative, Inc., and Lane County Electric Cooperative, Inc., has assumed in part the indebtedness of Douglas Electric Cooperative, Inc., to United States of America arising out of loans made by United States of America pursuant to the Rural Electrification Act of 1936, as amended, I hereby amend:

(a) Administrative Order No. 290, dated September 16, 1938, as amended by Administrative Order No. 439, dated March 11, 1940, by changing the project designation appearing therein as "Oregon R9017A1 Douglas" in the amount of $129,500 to read "Oregon R9017A1 Douglas" in the amount of $55,100.91 and "Oregon 18 Eugene (Oregon R9017A1 Douglas)" in the amount of $74,399.09; and

(b) Administrative Order No. 913, dated June 11, 1945, by changing the project designation appearing therein as "Oregon 5-46017T2 Douglas" in the amount of $63,000 to read "Oregon 5-46017T2 Douglas in the amount of $18,572.77 and "Oregon 18 Eugene (Oregon 5-46017T2 Douglas)" in the amount of $44,427.23.

[SEAL] WM. C. WISE, *Acting Administrator.*

[F. R. Doc. 52-4543; Filed, Apr. 22, 1952; 8:47 a. m.]

[Administrative Order 3623]

ALLOCATION OF FUNDS FOR LOANS

MARCH 15, 1952.

Inasmuch as Sho-Me Power Corporation has transferred certain of its properties and assets to Se-Ma-No Electric Cooperative and Gascosage Electric Cooperative, respectively, and Se-Ma-No Electric Cooperative and Gascosage Electric Cooperative have each assumed a part of the total indebtedness of Sho-Me Power Corporation to United States of America arising out of loans made by United States of America pursuant to the Rural Electrification Act of 1936, as amended, I hereby amend:

(a) Administrative Order No. 713, dated June 19, 1942, as amended by Administrative Order No. 1868, dated February 17, 1949, Administrative Order No. 2145, dated June 2, 1949, and Administrative Order No. 2338, dated October 12, 1949, by changing the project designation appearing therein as "Missouri 2059GT1 Cole" in the amount of $2,593,525 to read "Missouri 2059GT1 Cole" in the amount of $2,416,771.23 and "Missouri 67 Wright (Missouri 2059GT1 Cole)" in the amount of $19,566.61 and "Missouri 68 Pulaski (Missouri 2059GT1 Cole)" in the amount of $157,187.16; and

(b) Administrative Order No. 1500, dated April 29, 1948, by changing the project designation appearing therein as "Missouri 59C Cole" in the amount of $340,000 to read "Missouri 59C Cole" in the amount of $287,187.16 and "Missouri 68 Pulaski (Missouri 59C Cole)" in the amount of $52,812.84.

[SEAL] WM. C. WISE, *Acting Administrator.*

[F. R. Doc. 52-4544; Filed, Apr. 22, 1952; 8:48 a. m.]

[Administrative Order 3624]

IOWA

LOAN ANNOUNCEMENT

MARCH 15, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	*Amount*
Iowa 61N Cherokee	$118,000

[SEAL] WM. C. WISE, *Acting Administrator.*

[F. R. Doc. 52-4545; Filed, Apr. 22, 1952; 8:48 a. m.]

[Administrative Order 3625]

TEXAS

LOAN ANNOUNCEMENT

MARCH 15, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Texas 54AA Wood	$140,000

[SEAL] WM. C. WISE,
Acting Administrator.

[F. R. Doc. 52-4546; Filed, Apr. 22, 1952; 8:48 a. m.]

[Administrative Order 3626]

TEXAS

LOAN ANNOUNCEMENT

MARCH 15, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Texas 55X Floyd	$50,000

[SEAL] WM. C. WISE,
Acting Administrator.

[F. R. Doc. 52-4547; Filed, Apr. 22, 1952; 8:48 a. m.]

[Administrative Order 3627]

NEW MEXICO

LOAN ANNOUNCEMENT

MARCH 19, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
New Mexico 21F Lincoln	$50,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4548; Filed, Apr. 22, 1952; 8:49 a. m.]

[Administrative Order 3628]

ILLINOIS

LOAN ANNOUNCEMENT

MARCH 20, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Illinois 7P Henry	$164,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4549; Filed, Apr. 22, 1952; 8:49 a. m.]

[Administrative Order 3629]

OKLAHOMA

LOAN ANNOUNCEMENT

MARCH 20, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Oklahoma 24S Lincoln	$901,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4550; Filed, Apr. 22, 1952; 8:49 a. m.]

[Administrative Order 3630]

ALLOCATION OF FUNDS FOR LOANS

MARCH 25, 1952.

Inasmuch as (1) Southern Iowa Electric Cooperative, Inc., has transferred certain of its properties and assets to Northeast Missouri Electric Power Cooperative and Northeast Missouri Electric Power Cooperative has assumed in part the indebtedness of Southern Iowa Electric Cooperative, Inc., to United States of America arising out of loans made by United States of America pursuant to the Rural Electrification Act of 1936, as amended, and (2) Southern Iowa Electric Cooperative, Inc., with the consent of United States of America, has assigned to Northeast Missouri Electric Power Cooperative, and Northeast Missouri Electric Power Cooperative has accepted the assignment of certain obligations of Southern Iowa Electric Cooperative, Inc. to United States of America arising out of loans contracted to be made by United States of America pursuant to the Rural Electrification Act of 1936, as amended, I hereby amend:

(a) Administrative Order No. 1634, dated October 28, 1948, by changing the project designation appearing therein as "Iowa 77L Davis" in the amount of $1,493,000 to read "Iowa 77L Davis" in the amount of $751,645.13 and "Missouri 70 Shelby (Iowa 77L Davis)" in the amount of $741,354.87; and

(b) Administrative Order No. 2855, dated June 28, 1950, by changing the project designation appearing therein as "Iowa 77M, N Davis" in the amount of $835,000 to read "Iowa 77M, N Davis" in the amount of $823,287.51 and "Missouri 70 Shelby (Iowa 77M, N Davis)" in the amount of $11,712.49.

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4551; Filed, Apr. 22, 1952; 8:49 a. m.]

[Administrative Order 3631]

OKLAHOMA

LOAN ANNOUNCEMENT

MARCH 26, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Oklahoma 19U Craig	$992,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4552; Filed, Apr. 22, 1952; 8:49 a. m.]

[Administrative Order 3632]

NORTH DAKOTA

LOAN ANNOUNCEMENT

MARCH 27, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Dakota 13M Foster	$50,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4553; Filed, Apr. 22, 1952; 8:49 a. m.]

[Administrative Order 3633]

ARIZONA

LOAN ANNOUNCEMENT

MARCH 28, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Arizona 13E Navajo	$310,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4554; Filed, Apr. 22, 1952; 8:49 a. m.]

[Administrative Order 3634]

SOUTH CAROLINA

LOAN ANNOUNCEMENT

MARCH 28, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through

the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
South Carolina 38P Oconee	$270,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4555; Filed, Apr. 22, 1952; 8:50 a. m.]

[Administrative Order 3635]

CALIFORNIA

LOAN ANNOUNCEMENT

APRIL 1, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
California 41A Anza	$750,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4556; Filed, Apr. 22, 1952; 8:50 a. m.]

[Administrative Order 3636]

OREGON

LOAN ANNOUNCEMENT

APRIL 1, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Oregon 21S Coos	$1,350,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4557; Filed, Apr. 22, 1952; 8:50 a. m.]

[Administrative Order T-123]

ALABAMA

LOAN ANNOUNCEMENT

MARCH 25, 1952.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Florala Telephone Co., Inc., Alabama 504-B	$175,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 52-4541; Filed, Apr. 22, 1952; 8:47 a. m]

DEFENSE PRODUCTION ADMINISTRATION

[D. P. A. Request No. 24—DPAV-31]

REQUEST TO MIL-FIN, INC., TO OPERATE AS A SMALL BUSINESS ENTERPRISE PRODUCTION POOL AND REQUEST TO CERTAIN COMPANIES TO PARTICIPATE IN THE OPERATIONS OF SUCH POOL

Pursuant to section 708 of the Defense Production Act of 1950, as amended, the request to Mil-Fin, Inc., to operate as a small business enterprise production pool and the request to the companies hereinafter listed to participate in the operations of such pool, set forth below, were approved by the Attorney General after consultations with respect thereto between the Attorney General, the Chairman of the Federal Trade Commission, and the Administrator of the Defense Production Administration. The voluntary program in accordance with which the pool shall operate has been approved by the Administrator of the Defense Production Administration and found to be in the public interest as contributing to the national defense.

REQUEST TO MIL-FIN, INC.

You are requested to operate as a small business enterprise production pool in accordance with the voluntary program set forth in the papers submitted to the Department of Commerce, Office of Small Business, Pooling Section, Washington, D. C., under date of August 13, 1951, and subsequent communications of September 19, September 26, October 2, 1951, and January 9, 1952.

In my opinion, the operations of your corporation as a small business enterprise production pool will assist in the accomplishment of our national defense program.

The Attorney General has approved this request after consultations with respect thereto between his representatives, representatives of the Chairman of the Federal Trade Commission, and my representatives, pursuant to section 708 of the Defense Production Act of 1950, as amended.

I approve the voluntary program and find it to be in the public interest as contributing to the national defense. You may commence your operations as a small business enterprise production pool upon notifying me in writing of your acceptance of this request. Immunity from prosecution under the Federal antitrust laws and the Federal Trade Commission Act will be given upon such acceptance, provided that such operations are within the limits set forth in the approved voluntary program.

Your cooperation in this matter will be appreciated.

Sincerely yours,

MANLY FLEISCHMANN,
Administrator.

REQUEST TO COMPANIES

You are requested to participate in the operations of Mil-Fin, Inc., which will operate as a small business enterprise production pool in accordance with the voluntary program set forth in the papers submitted by Mil-Fin, Inc., to the Department of Commerce, Office of Small Business, Pooling Section, Washington, D. C., under date of August 13, 1951, and subsequent communications of September 19, September 26, October 2, 1951, and January 9, 1952.

In my opinion, your participation in the operations of this small business enterprise production pool will assist in the accomplishment of our national defense program.

The Attorney General has approved this request after consultations with respect thereto between his representatives, representatives of the Chairman of the Federal Trade Commission, and my representatives, pursuant to section 708 of the Defense Production Act of 1950, as amended.

I approve the voluntary program and find it to be in the public interest as contributing to the national defense. You will become a participant therein upon advising me in writing of your acceptance of this request. Immunity from prosecution under the Federal antitrust laws and the Federal Trade Commission Act will be given upon such acceptance, provided that the operations of this production pool and your participation therein are within the limits set forth in the approved voluntary program.

Your cooperation in this matter will be appreciated.

Sincerely yours,

MANLY FLEISCHMANN,
Administrator.

Mil-Fin, Inc., accepted the request set forth above to operate as a small business enterprise production pool.

LIST OF COMPANIES ACCEPTING REQUEST TO PARTICIPATE

Enterprise Paint Manufacturing Company, Ashland Avenue at Twenty-ninth Street, Chicago, Ill.

James B. Day & Company, 1872 Clybourn Avenue, Chicago, Ill.

Midland Industrial Finishes Company, East Water Street, Waukegan, Ill.

O'Neil Duro Company, P. O. Box 1166, Milwaukee, Wis.

Tousey Varnish Company, 520 West Twenty-fifth Street, Chicago, Ill.

(Sec. 708, 64 Stat. 818, Pub. Law 96, 82d Cong.; 50 U. S. C. App. Sup. 2158; E. O. 10200, Jan. 3, 1951, 16 F. R. 61; 3 CFR, 1951 Supp.)

MANLY FLEISCHMANN,
Administrator.

Dated: April 21, 1952.

[F. R. Doc. 52-4633; Filed, Apr. 22, 1952; 11:13 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Price Stabilization

[Delegation of Authority No. 64]

DIRECTORS OF THE REGIONAL OFFICES

DELEGATION OF AUTHORITY TO ISSUE ORDERS ESTABLISHING PRICE FACTORS, EXCHANGE ALLOWANCES, PRICE DIFFERENTIALS, PRICE DETERMINING METHODS, UNDER CPR 139

By virtue of the authority vested in me as Director of Price Stabilization pursuant to the Defense Production Act of 1950, as amended (64 Stat. 798, 803; 65 Stat. 131), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2, as amended (16 F. R. 738, 11626), this delegation of authority is hereby issued.

1. Authority is hereby delegated to the Directors of the Regional Offices, Office of Price Stabilization to issue orders establishing price factors, exchange allowances, and price differentials under section 27, exchange allowances under section 26 (c), price determining methods under section 34, and price factors and price differentials under section 46 of Ceiling Price Regulation 139.

2. The authority herein delegated may be redelegated to the Directors of District Offices of the Office of Price Stabilization.

This delegation of authority shall take effect on April 28, 1952.

ELLIS ARNALL,
Director of Price Stabilization.

APRIL 22, 1952.

[F. R. Doc. 52-4644; Filed, Apr. 22, 1952; 4:00 p. m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration

FIELD OFFICE

DESCRIPTION OF AGENCY AND PROGRAMS AND FINAL DELEGATIONS OF AUTHORITY

EDITORIAL NOTE: Federal Register Document 52-4393, appearing at page 3463 of the issue for Friday, April 18, 1952, has been corrected so that the reference to "paragraph II e" now reads "paragraph III e".

FEDERAL POWER COMMISSION

[Docket No. E-6424]

IOWA POWER AND LIGHT CO.

NOTICE OF APPLICATION

APRIL 16, 1952.

Take notice that on April 16, 1952, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, by Iowa Power and Light Company, a corporation organized under the laws of the State of Iowa, and doing business in said state with its principal business office at Des Moines, Iowa, seeking an order authorizing the issuance and sale of $10,000,000 principal amount of its First Mortgage Bonds, ____ Percent Series due 1982 and approximately 227,000 shares of its Common Stock, of the par value of $10 per share. The proposed bonds will be issued May 1952 will be dated May 15, 1952, and will mature May 15, 1982. Said bonds will be sold by competitive bidding, and the 227,000 shares of Common Stock proposed to be issued by applicant will be offered to holders of outstanding shares of such stock for subscription by means of transferable subscription warrants on the basis of one share of additional Common Stock for each seven shares of outstanding Common Stock held. Applicant seeks an exemption of the proposed offering of the additional Common Stock from the competitive bidding requirements of the Commission's rules and regulation; all as more fully appears in the application on file with the Commission.

Any persons desiring to be heard, or to make any protest with reference to said application should, on or before the 7th day of May 1952, file with the Federal Power Commission, Washington, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-4534; Filed, Apr. 22, 1952; 8:45 a. m.]

[Docket Nos. G-1142, G-1508, G-1158]

UNITED GAS PIPE LINE CO. ET AL.

ORDER SEVERING PROCEEDING AND FIXING DATE OF HEARING

APRIL 15, 1952.

In the matters of United Gas Pipe Line Company, Docket Nos. G-1142 and G-1508; Willmut Gas & Oil Company et al. v. United Gas Pipe Line Company, Docket No. G-1158.

On December 8, 1948, Willmut Gas & Oil Company, et al. (Willmut) filed a complaint against United Gas Pipe Line Company (United) at Docket No. G-1158 alleging, among other things, that the contract rates at which United sells natural gas to Willmut are unjust and unreasonable, and praying, among other things, that the Commission fix just, reasonable, nondiscriminatory and nonpreferential rates for gas delivered by United to Willmut.

By orders issued September 28, 1949, and November 30, 1950, the complaint proceeding at Docket No. G-1158 was consolidated with the proceeding upon the general rate investigation of United instituted at Docket No. G-1142 by order issued October 13, 1948—which investigation is currently pending—and with the proceeding instituted against United by order issued November 30, 1950, at Docket No. G-1508 to show cause why it should not file a tariff in conformity with Part 154 of the Commission's rules and regulations (18 CFR Part 154).

On April 25, 1951, the Commission issued its order postponing upon motion of United, the hearing previously fixed to commence on May 1, 1951, in the above-consolidated proceedings to a date and place to be thereafter fixed by further order of the Commission.

The proceedings at Docket Nos. G-1142 and G-1158 were consolidated upon representations of United and Willmut in their respective pleadings at the latter docket. In view of the long pendency of these matters and the impracticability of setting these consolidated matters down for hearing now, it appears advisable to the Commission, upon its own motion, to sever the proceeding at Docket No. G-1158 from the proceedings herein and to hold a separate hearing with respect to issues raised by the pleadings at Docket No. G-1158.

The Commission finds:

(1) Good cause exists for severing the proceeding upon the complaint of Willmut Gas & Oil Company, et al., against United Gas Pipe Line Company at Docket No. G-1158 from the proceedings herein.

(2) It is appropriate to carry out the provisions of the Natural Gas Act that a public hearing be held upon the complaint proceeding at Docket No. G-1158 as hereinafter provided.

The Commission orders:

(A) The proceeding upon the complaint of Willmut Gas & Oil Company, et al., against United Gas Pipe Line Company at Docket No. G-1158 be and the same is hereby severed from the proceedings herein.

(B) A public hearing be held commencing May 6, 1952, at 10:00 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington 25, D. C., respecting the matters involved and the issues presented by the complaint, answer thereto, and pleadings at Docket No. G-1158.

Date of issuance: April 17, 1952.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-4535; Filed, Apr. 22, 1952; 8:45 a. m.]

[Docket No. G-1267]

NORTHEASTERN GAS TRANSMISSION CO.

NOTICE OF PETITION

APRIL 16, 1952.

Take notice that on April 8, 1952, the Northeastern Gas Transmission Company (Northeastern), a Delaware corporation having its principal place of business at 31 Hillman Street, Springfield, Massachusetts, filed a petition pursuant to section 16 of the Natural Gas Act and the Commission's general rules and regulations for amendment of the order of November 8, 1950, and accompanying Opinion No. 202, issuing a certificate of public convenience and necessity to Northeastern.

Northeastern petitions to have said order amended in, and only in, the following particulars:

(1) Amend the words "The Connecticut Light & Power Company (Winsted)" and "The Connecticut Light & Power Company (Norwalk)" appearing in lines 4, 5, 6, and 7 on page 40 of said order and opinion issued November 8, 1950, and wherever else contained or referred to in said order so as to substitute therefor the words "The Connecticut Gas Company (Norwalk)" and "The Connecticut Gas Company (Winsted)" respectively.

(2) Amend said order and opinion, and specifically page 40 thereof, to authorize Northeastern to sell up to 7,000 Mcf of natural gas per day to the Haverhill Gas Light Company in lieu of selling 5,400 Mcf per day to Haverhill Gas Light Company and 1,600 Mcf per day to Haverhill Electric Company as presently authorized.

(3) Amend said order and opinion, and specifically page 40 thereof, to authorize Northeastern to sell 4,100 Mcf of natural gas per day to the Central Massachusetts Gas Company in lieu of selling 2,900 Mcf per day to the Worcester County Electric Company and 1,200 Mcf per day to the Spencer Gas Company as presently authorized.

Northeastern states that the above amendments are made necessary by (1)

creation of a subsidiary, (2) merger and consolidation, and (3) acquisition of facilities. No increase in the volumes of natural gas to be delivered over that authorized in the Commission's order of November 8, 1950, hereinbefore mentioned, is requested.

The petition is on file with the Commission for public inspection. Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 7th day of May 1952.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-4564; Filed, Apr. 22, 1952; 8:52 a. m.]

[Docket No. G-1904]

UNITED GAS PIPE LINE CO.

ORDER FIXING DATE OF HEARING

APRIL 17, 1952.

On March 3, 1952, United Natural Gas Company (Applicant), a Delaware corporation having its principal place of business at Shreveport, Louisiana, filed an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural gas facilities, subject to the jurisdiction of the Commission, as described in the application on file with the Commission and open to public inspection. Said facilities would connect with facilities to be constructed by United Gas Corporation for natural-gas service to the towns of Hall, Keatchie, Eros, and Oak Ridge, all in Louisiana.

The Commission finds: This proceeding is a proper one for disposition under the provisions of § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure, Applicant having requested that its application be heard under the shortened procedure provided by the aforesaid rule for noncontested proceedings, and no request to be heard, protest, or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on March 22, 1952 (17 F. R. 2505).

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing be held on May 6, 1952, at 9:45 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washigtonn, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the Commission's rules of practice and procedure.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Date of issuance: April 17, 1952.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-4563; Filed, Apr. 22, 1952; 8:52 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26982]

FURFURAL FROM MEMPHIS, TENN., TO OFFICIAL TERRITORY

APPLICATION FOR RELIEF

APRIL 18, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to Agent C. A. Spaninger's tariffs I. C. C. Nos. 1172 and 1193.

Commodities involved: Furfural, in tank-car loads.

From: Memphis, Tenn.

To: Specified points in official and Illinois territories.

Grounds for relief: Rail and market competition, circuity, and to apply over short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1172, Supp. 94; C. A. Spaninger's tariff I. C. C. No. 1193, Supp. 50.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-4559; Filed, Apr. 22, 1952; 8:50 a. m.]

[4th Sec. Application 26983]

FERTILIZER FROM JACKSONVILLE, FLA., TO MADISON, FLA.

APPLICATION FOR RELIEF

APRIL 18, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for the Atlantic Coast Line Railroad Company, Georgia Southern and Florida Railway Company, and Georgia & Florida Railroad.

Commodities involved: Fertilizer and fertilizer materials, carloads.

From: Jacksonville, Fla.

To: Madison, Fla.

Grounds for relief: To meet intrastate rates.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1221, Supp. 14.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-4560; Filed, Apr. 22, 1952; 8:51 a. m.]

[Rev. S. O. 562, King's I. C. C. Order 68]

COPPER RANGE RAILROAD CO.

REROUTING OR DIVERSION OF TRAFFIC

In the opinion of Homer C. King, Agent, the Copper Range Railroad Company, because of work stoppage, is unable to transport traffic routed over its line. *It is ordered,* That

(a) Rerouting traffic: The Copper Range Railroad Company being unable to transport traffic in accordance with shippers' routing, because of work stoppage, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroad or railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: The carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 1:00 p. m., April 17, 1952.

(g) Expiration date: This order shall expire at 11:59 p. m., May 17, 1952, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., April 17, 1952.

INTERSTATE COMMERCE COMMISSION,
HOMER C. KING, *Agent*.

[F. R. Doc. 52-4559; Filed, Apr. 22, 1952; 8:50 a. m.]

[MC-F-3457, MC-F-4525, MC-F-4901]

GEITZ STORAGE & MOVING CO., INC., ET AL.

SPECIAL RULES OF PROCEDURE

In the matter of Geitz Storage & Moving Co., Inc., et al., investigation of control, United Van Lines, Inc., No. MC-F-3457; Airline Vans, et al., control, United Van Lines, Inc., No. MC-F-4525; United Van Lines, Inc., pooling, No. MC-F-4901.

Upon consideration of the above-entitled matter, and to provide for the orderly and convenient investigation of the matters and things involved in the above-entitled proceedings, and to conserve the time of the Commission and the parties, and good cause appearing therefor,

It is ordered, That further proceedings in these matters shall be governed by the special instructions and rules of procedure set forth below, in addition to the general rules of practice before the Commission.

And it is further ordered, That public notice be given by serving a copy hereof upon all parties to the said proceedings, by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy with the Director, Division of the Federal Register, Washington, D. C.

Dated at Washington, D. C., this 15th day of April A. D. 1952.

By the Commission, Commissioner Mitchell.

[SEAL] W. P. BARTEL, *Secretary*.

APPENDIX

SPECIAL RULES OF PROCEDURE AND INSTRUCTIONS APPLICABLE IN NOS. MC-F-3457, MC-F-4525, AND MC-F-4901

1. *Submission of evidence in written form with affidavit attached.* It is desired that evidence by applicants and respondents, so far as practicable, be submitted in written form with affidavits attached. Evidence offered should be prepared with conciseness and clarity, and so as to avoid extraneous, immaterial, and irrelevant matter, and undue cumulation of testimony of witnesses upon any point. Is should be factual in character, and argument should be reserved for later stages in the proceedings, and not be incorporated in the testimony. Exhibits may be attached to the written statements, and such exhibits should conform to the general rules of practice, particularly to Rules 81 to 84, inclusive. All exhibits of a single witness should, so far as practicable, be incorporated in a single exhibit, with pages consecutively numbered, suitably bound together. The written evidence in the form of affidavits, with or without exhibits attached, will be referred to as verified statements, and each verified statement will be assigned a serial number by the Commission.

2. *Filing and distribution of verified statements.* Five (5) copies of such verified statements, with accompanying exhibit or exhibits firmly attached, should be filed with the Secretary of the Commission on or before August 1, 1952. Copies of verified statements will be made available to persons who make a request therefor to Mr. Brainerd W. LaTourette, 314 North Broadway, St. Louis 2, Missouri, on or before June 1, 1952.

3. *Evidence open to public inspection.* The evidence filed will be open to public inspection promptly after the date of filing, at the Office of the Commission in Washington, D. C.

4. *Objections to evidence.* Notice of objections to receipt in evidence of any verified statement should be filed with the Secretary within 15 days after its filing with the Commission. A copy of the notice of objection should be mailed immediately to the witness or his attorney.

5. *Cross-examination of witnesses.* If cross-examination of a witness is desired, written request therefor must be given to the Secretary and to the witness, or his authorized attorney, within 15 days after the filing of the witness' written statement, otherwise cross-examination will be deemed to be waived. The Commission will fix the time and place therefor.

6. *Record.* The evidence presented and admitted pursuant to these special rules shall be embraced in the entire record in these proceedings upon which decision will be made, subject to such cross-examination of any witness concerning any verified statements as may be requested and as ordered by the Commission, unless waived as provided in paragraph 5 hereof.

[F. R. Doc. 52-4561; Filed, Apr. 22, 1952; 8:51 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7—1426]

KOPPERS CO., INC.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of April A. D. 1952.

In the matter of application by the Boston Stock Exchange for unlisted trading privileges in Koppers Company, Inc., Common Stock, $10 Par Value, File No. 7-1426.

The Boston Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the Common Stock, $10 Par Value, of Koppers Company, Inc., a security listed and registered on the Midwest Stock Exchange and on the New York Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Washington, D. C.

Notice is hereby given that, upon request of any interested person received prior to April 28, 1952, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary*.

[F. R. Doc. 52-4536; Filed, Apr. 22, 1952; 8:46 a. m.]